

July 9. 1767.

A N S W E R S

F O R

Lewis Ray and John Bremner, present bailies of the borough of Fortrose, Mr William Smith dean of guild, Alexander Falconer treasurer, Thomas Clark, George Greig, Colonel Hector Munro, George Mackay of Skibo, Duncan Ross of Kindeace, and George Munro of Pointsfield, all counsellors of the said borough,

T O

The PETITION of Sir Alexander Grant of Dalvey, Baronet, late one of the counsellors of the said borough.

SIR ALEXANDER GRANT, the petitioner, under the authority of the statute of the 16th of his late Majesty, preferred a petition and complaint to your Lordships, for reducing and setting aside the election of magistrates and counsellors of the borough of Fortrose, made upon the 30th of September 1766, as having been brought about by bribery and corruption.

When this complaint was moved in court upon the 26th of November last, it occurred, that it was laid in vague and general terms, and contained so incomplete and imperfect a charge, that the same ought not to go to proof; and it having been observed by the petitioner's counsel, that they could not then be more special, but that they soon expected a particular information, the following interlocutor was pronounced. "The Lords having heard Nov. 26. 1766
" this petition and complaint, they supersede advising the same till
" Tuesday the 9th December next."

In order to supply the imperfection of the original complaint, a condescendence was exhibited on behalf of the petitioner; but

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conceived in terms almost as vague and general as the complaint itself. But your Lordships having thereupon ordered the usual service, answers were put in upon behalf of the respondents; and Feb. 12. 1767. your Lordships, by an interlocutor of this date, allowed a proof to both parties of their respective allegations, and of all facts and circumstances which they may judge material; and granted commission, &c.

A great number of witnesses were accordingly cited and examined by the complainer, whereby his proof is already swelled to 600 pages. The respondents were cited among the other witnesses to give evidence against themselves, and underwent a very long examination, and were teased and harassed in a manner that was very improper: and however safely the respondents might have answered all the questions that were put to them, yet as it appeared to them to be dangerous in point of precedent to indulge the petitioner in answering questions, which, if true, behoved to infer turpitude against themselves, so, in order to put an end to a teasing examination, they laid hold of the benefit which the law allows them, and refused to answer such questions as appeared to them to have the foresaid tendency.

The petitioner, affecting to consider the respondents silence upon these particular questions as proceeding from a consciousness of guilt, has preferred a petition to your Lordships, insisting for a re-examination of the respondents, as well as some other witnesses adduced by the petitioner, upon such questions as they had formerly declined to answer. This petition your Lordships have ordained to be seen and answered; and in obedience thereto, these answers are humbly offered in behalf of the respondents.

The petitioner, in his original complaint, was forced to acknowledge his ignorance of the particular acts of bribery by which the election complained of was brought about; and even after the great volume of proof that has been adduced, he still seems to acknowledge himself in the dark, and to admit that he has failed in establishing the grounds of his complaint. However, he still pretends to consider it as a thing certain, that the election was brought about by bribery and corruption; because, as his interest was so well established and rivetted in the affections of the people of this borough, so sudden a revolution could not have been brought about, otherwise than by the means of undue and corrupt practices.

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But the respondents, with all submission, are not a little surprised, that this topic should again be insisted upon in this petition, after the several letters of correspondence that have appeared in the course of leading this proof, and the causes of disgust given by the petitioner to the community. The respondents shall not inquire into what attachments the other boroughs of this district may have to the petitioner; but it is now as clear as the sun at noon-day, that he never had any solid footing in this borough of Fortrose; and indeed that he was at no pains to attach it to his interest. It now appears, by letters under his own hand, that he never considered himself as lying under any obligation to the borough of Fortrose, for their voice in his election; for which he says he stood indebted to the late Lord Fortrose, who gave him the interest of this borough *by a mandate*, as he calls it.

And as to the pretended acts of kindness which are said to have been done from time to time to this borough, no vestige of them is to be traced in a report of 600 pages which the petitioner has now exhibited, unless he considers two trifling loans of money at the legal interest, which he made to Bailie Bremner and Clerk Greig, in this light; for the first of which he took an heritable bond on Bailie Bremner's subjects.

Nay, further, it now appears by the petitioner's own letters, that he had a thorough diffidence and distrust in every member of the council; which indeed seems to be extremely well founded: for it is now evident from the proof, that though this council consisted of fifteen, yet, himself excepted, the petitioner had not a single friend among them. For as to Provost and Bailie Houstouns, the only two of them whom the petitioner is pleased, on this occasion, to consider as his friends, Provost Houstoun acknowledges, upon oath, that if another gentleman (whom it is unnecessary at present to mention particularly) "came as a candidate upon the field, he had no objection to give him a hearing." And as to Bailie Houstoun, the Provost's brother, he acknowledges, upon oath, that he was one of the first persons in the knowledge of the original resolution that was taken of putting an end to the petitioner's interest in Fortrose, without ever giving him the least hint of it to put him on his guard.

The petitioner, therefore, had no reason to pretend to an hereditary or family influence and interest in this borough; nor had he the least reason to be surprised at the revolution that happened. It is

is extremely evident, that in this case there was little occasion to have recourse to bribery and corruption, or any undue means, to turn the petitioner out of the council, and to bring into it gentlemen who, on account of their interests and connections in that country, had a very natural title to be upon the council.

With respect to the merits of the question, which falls more immediately at present under your Lordships consideration, the respondents do humbly beg leave to contend, and submit it to your Lordships, That it was not competent for the petitioner to examine the respondents as witnesses in this cause. The respondents are the proper parties in the action: they have not only a proper interest to support their election as magistrates and counsellors of the borough, but they have all and each of them a proper patrimonial interest in the issue of the question; because upon it does depend, whether they shall be intitled to recover the expences of process from the petitioner, or if they shall be found liable to the petitioner in the payment of his expences. So that the question comes to this, How far it is competent to examine parties against themselves as witnesses in their own cause?

The respondents have no occasion to enter into the question, How far it would have been competent for the petitioner to have proved his complaint by a reference to the respondents oaths? or even how far, after having been allowed a proof by witnesses, he could have departed from that mean of proof, and still have had recourse to the oaths of the defenders? but what they humbly contend is, That after having been allowed a proof of his complaint by witnesses, and, in consequence thereof, having adduced and examined a number of witnesses, whereby the proof is already swelled to about 600 pages, he could not at the same time examine, along with these witnesses, the parties themselves.

This proposition seems to be laid down by Lord Stair, *lib. 4. tit. 44. § 2.* His words are, " Seeing oaths of parties for confirmation, must end all strife; and that the swearer runs therein the hazard of perjury and infamy, if the contrary be proven; therefore, after such oaths, there may be no other probation adduced; yea, parties ought not to be urged to swear, where the urger knows any other sufficient probation: and therefore he that is required to swear for terminating a plea, is not obliged to swear till the requirer not only renounce all other probation, but depone that he has none, especially that he hath no probative
" writ;

“ writ; because the malice of some, in small matters, may be so great, as to be content to lose the point referred, so that they might make the swearer infamous, by reserving his writ to the contrary.”

To the same purpose Mr Erskine: “ To obviate the snares that Lib. 4. p. 443. may be laid for perjury, he to whose oath of verity a point is referred, may refuse to depone, till his adversary swear that he can bring no other evidence in proof of his allegation.”

And Lord Bankton: “ But if one undertake a proof by witnesses, Lib. 4. tit. 32. he regularly cannot refer to the other party’s oath the points in § 10. proof, unless the witnesses depositions are not at all to the purpose: for if one witness depose to the verity of the fact, the party might deny it on oath; which would infer perjury against the one or the other; the hazard of which our law, by such precaution, obviates. This seems to be the rule; but a case may occur where circumstances make it necessary to admit a reference to the defender’s oath, even after one witness has deposed *affirmative* to the pursuer’s claim; an instance of which did lately occur.”

Agreeable to these authorities it was determined, 26th January 1686, Mr James Horn against James Strachan, observed by Fountainhall; in which case the Lords turned Horn’s decret into a libel, in respect of this informality, That having referred his libel to the defender’s oath, he had also led witnesses thereon; though it was alledged that the witnesses were first adduced; and in so far as they did not prove, the libel was referred to the defender’s oath. And upon the same principles it was likewise decided, 22d June 1676, Irvine *contra* Ross and Irvine.

The foresaid authorities do indeed apply to the case of a reference to oath of party. But it is extremely plain, that the reason of the law does apply with equal force in the case where parties are called to depone as witnesses.

And indeed it would be extremely hard, to oblige parties to depone, while a proof by witnesses has been resorted to, and a number of witnesses examined accordingly; because if the parties who have an interest in the case, should depone to facts differently from what these facts were deposed to by the other witnesses, they would be loaded with the imputation of perjury; and therefore, with submission, no man can be obliged to depone, when he is brought under such circumstances that he must either depone a-

gainst himself, or have his character and reputation in the world branded with suspicions of perjury.

The petitioner says, That if the counsellors of boroughs are not bound to disclose in evidence the secrets of their brethren and friends in matters of bribery and corruption, it would at once put an end to all inquiries of that kind.

But where a complainer in a question of this kind finds himself under such circumstances, that he has no other mean of proof than the oaths of the defenders, he ought to betake himself alone to that mean of proof. But the respondents do humbly apprehend, that when a complainer has had recourse to a proof by witnesses, and has examined accordingly a number of witnesses upon the subject-matter of his complaint, he cannot, under these circumstances, oblige the parties themselves to depone.

But, *2do*, As it is admitted by the petitioner himself, that parties are not obliged to depone to facts that may infer turpitude against them; so, with submission, it does not occur to the respondents, that it would have any considerable effect in preventing the detection of crimes of this nature, although the parties could not be adduced as witnesses. --- As the petitioner is here pleased to suppose, that the crime of bribery will be practised with as much secrecy as possible, so it does not occur to the respondents, that the counsellors of a borough have better access to be acquainted with the bribery of the different members, than any other persons in the borough, who are not members of the magistracy and council.

The respondents therefore do humbly apprehend, and submit it to your Lordships, that as the petitioner in this case had recourse to a proof by witnesses, in order to establish the grounds of his complaint, and hath examined accordingly a great number of witnesses, by which the proof has already swelled to a very great bulk, he is not now intitled to demand the oaths of the respondents upon the subject-matter of his complaint.

But if your Lordships should be of another opinion, the respondents, who are not afraid of the most strict investigation, shall willingly answer every question that your Lordships shall think pertinent to the issue, and may with propriety be put to them. The respondents do deny, that they were under any combination to conceal the truth. They had no occasion for such combination.

They

They were teased and harassed upon their examination, in a very unprecedented manner; the petitioners proof having lasted five weeks, without intermission, excepting Sundays, and one Saturday; and very often a whole day, and sometimes two days, taken up in examining one witness. Many questions were asked at them, which, upon the principle that is admitted by the petitioner himself to be just, were highly improper. The respondents do not dispute, that some particular questions, which some of the respondents, upon their examination, declined to answer, did not fall under the rule, and might have been put upon the supposition that the respondents could at all be examined. But this was chiefly occasioned by the conduct of those who managed the proof upon the part of the petitioner. The manner in which they were teased, prevented them from distinguishing, with precision, what questions were pertinent from what were not.

From reading the petition, your Lordships would be led to imagine, that there was almost a total silence upon the part of the respondents; whereas the fact is, that several of them underwent a very long examination, as above noticed, and made answers to the bulk of the questions that were put to them. The respondents have hereto annexed some of their depositions, and excerpts from others; from which your Lordships will perceive, not only in what manner they were teased and harassed in the course of their examination, but likewise that the petitioner has very little reason to complain as to several of the respondents; and that, as they have already answered every question that was material, your Lordships will see no good cause for putting them to the trouble and expence of a journey to Edinburgh, for a re-examination.

And, 1st, With respect to Alexander Falconer, the treasurer of Fortrose, a copy of his deposition is hereto annexed; and from thence your Lordships will perceive, that although this witness was teased in a very extraordinary manner, in the course of his examination, yet the only refusal with which he is charged by the petitioner, is the question subjoined to the petition, *viz.* "Whether he knows, or has reason to believe, that any money was given or promised to his mother before the last Michaelmas election, to gain her son the deponent's vote in modelling the town-council of Fortrose at last Michaelmas election?" And this being the case, it is humbly submitted to your Lordships, if there is the least pretence for any complaint against him, or for a re-examination

examination of him. He has given the petitioner ample satisfaction, in every particular, as far as he knew. He had even repeatedly answered, in former parts of his deposition, questions respecting his parents, plainly comprehending the very question for declining to answer which separately he has now been found fault with. And even although it had not been formerly answered, it would not have been a good ground of complaint against him, as the question falls under the rule admitted by the petitioner himself to be just, *viz.* That it had a tendency to infer turpitude against himself and his parent. Mr Falconer has been lame from his infancy: he constantly walks on crutches, being scarce able to point his toes to the ground. It would, therefore, be laying a very great hardship upon him, to oblige him to undertake a journey to Edinburgh; and after what has been said, he is humbly persuaded your Lordships will be of opinion, that he has done nothing that deserves the being laid under any such hardship.

As to William Smith, it is humbly submitted to your Lordships, if there is any just ground for a re-examination of him. The questions which he refused to answer, do clearly resolve into an accusation of the crime of bribery against himself; and such questions the petitioner admits he was not bound to answer.

The only question he refused to answer, which may be said not to fall under that predicament, was his hearsay with respect to money having been given, or promised to any of the counsellors, or their relations, which he declined to answer, as being *vague and uncertain*. It must occur to your Lordships, that this question could be of very little importance, in whatever manner it was answered: and as he is schoolmaster of this borough, and has already, to the great detriment of his school, spent much time in attending this proof; so he is humbly persuaded, that your Lordships will not oblige him to undertake a journey to Edinburgh, which would occasion his absence from his school for some weeks, for no other reason, but merely to answer a single question, relative to hearsay.

It is likewise humbly submitted to your Lordships, if there is any just reason for a re-examination of Thomas Clark. The questions which he refused to answer, and which are stated in the Appendix to the petition, p. 27. and 28. do only relate to rewards given or promises made to himself for his voice in the election; and as they
clearly

clearly tend to infer turpitude against himself, these questions, even according to the petitioner's own admission, were improper, and which he could not be obliged to answer.

There are other two of the respondents, Mr Mackay of Skibo and Bailie John Bremner, whom the complainer has included in his list, in respect of their refusing to answer a very few questions. Their depositions are hereto annexed ; and from thence it will appear, that they have given all the satisfaction that could be reasonably expected or required of them. Mr Mackay has only refused to answer two questions. The *first* is, " Whether Colonel Munro told him, by what means he proposed to carry the borough of Fortrose?" To this he might indeed have answered, Yes, or No; but if he gave an answer in the affirmative, the next question would have been, What those means were? And accordingly the *second* question that actually was put to him, respects what passed at a meeting where measures were proposed for carrying the borough of Fortrose: " And whether the means proposed were to give money, places, or promises, to the magistrates or counsellors, or any of them?" This question, explanatory of the first, clearly shows, that the complainer intended to prove Mr Mackay's accession to bribery; and therefore it is submitted, that he was not bound to answer either of the questions. And as for the other gentleman, John Bremner, it will appear, from comparing the questions he refused, as annexed to the petition, p. 24. with the rest of his deposition hereto subjoined, that these questions were intended to involve him in contradictions, being in substance already answered. The second question put to him, " Whether he was, by any hint, insinuation, or other way, made to expect money, post, employment, or other favour, to engage him to new-model the council?" evidently tended to involve him in bribery and corruption; and therefore was improperly put to him. The other three questions which he refused, though respecting immediately the corruption of the other counsellors, likewise might tend to infer turpitude against himself. It is humbly hoped therefore, that your Lordships will not incline to bring up either of these gentlemen, from the most remote parts of the country, on account of their refusing to answer questions which were improperly put to them; especially as they have already given full and explicit answers to every question which the complainer could put to them with propriety, when it is considered that they are defenders in this cause.

As to Colonel Munro, who is likewise one of the respondents, his being forth of the kingdom does by no means lessen the regard which he justly entertains for the authority of this court. But it is humbly submitted to your Lordships, if the petitioner, by the manner in which he hath laid his complaint, has not precluded himself from the benefit of his testimony. — The condescendence that was given in to court, as relative to the original petition and complaint, does set forth, “ That the nine following persons, members of the town-council at Michaelmas last, viz. Lewis Ray, &c. did, all and each of them, receive from Colonel Hector Munro, and others acting in concert with him, for new-modeling the magistrates and council of this borough for the interest of the said Colonel Hector Munro, certain considerable sums of money, and other rewards, or promises of rewards, for giving their votes as directed and enjoined by them, in purging the old council, and in the election of the magistrates and new council; and more particularly, that Lewis Ray, John Bremner, William Smith, and George Greig the clerk, and who was also a counsellor, being themselves previously corrupted, were employed to negotiate the corruption of the other counsellors above named, and which they did accordingly accomplish; and in particular, that Andrew Bremner did receive for his share L. 100 Sterling, and promises of further rewards and good deeds.”

As to the other respondents, there is no inconsistency in supposing that some of them may be guilty, and others of them innocent; but as to Colonel Munro, taking the facts as charged by the petitioner himself in the foresaid condescendence, it is impossible to suppose any of the respondents guilty of any of the acts of bribery charged against them, without at the same time supposing Colonel Munro to have been accessory thereto. The guilt of any of the respondents, according to the petitioner's own shewing, does necessarily suppose an accession to that guilt upon the part of Colonel Munro; and as the petitioner does admit, that *nemo tenetur jurare in suam turpitudinem*, so the application of this rule does necessarily exclude Colonel Munro from being examined as a witness in this complaint. He cannot prove any of the facts as charged by the complainer, without, at the same time, establishing an accession to the crime of bribery against himself..

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The petitioner does likewise complain of some other witnesses besides the respondents, for refusing to answer when called to give evidence in this cause; but as to them, the respondents have no concern. It is not their business to justify the conduct of the petitioners own witnesses. However, as to some of them, the respondents are humbly persuaded, that when called upon, they will be able to satisfy your Lordships as to the propriety of their behaviour on this occasion.

The petitioner seems to consider the respondents reclaiming against your Lordships interlocutor allowing a proof, and afterwards taking an appeal against the judgement, as an evidence of guilt; and that these steps were taken in order to prevent an investigation and inquiry into their corrupt practices.

But as it is extremely clear, that the petitioner had no solid footing in this borough, and that no undue means were necessary to dismiss him from the council; so it would be straining extremely hard, to suppose the respondents conduct in the foresaid particulars as an evidence of their guilt.

The respondents have said again and again, that the election complained of was the result of their free choice and inclinations, and that no unconstitutional practices were necessary to bring it about; but at the same time it occurred to them, and experience daily shews, that it is a thing extremely disagreeable to persons concerned in matters of this kind, to be involved in a proof of a general charge of bribery and corruption: for besides the harassment and expence which such proofs must occasion to the parties concerned, it is an observation justified by experience, That there is no knowing how far persons will go when once heated with the rage and fury of political faction; and the great trouble and expence which the respondents in this case have been put to in the course of a long and tedious proof, not yet concluded, must sufficiently justify their conduct to the world for wishing to avoid it, without supposing the least accession to the crimes with which they are charged.

Upon the whole, it is humbly hoped, that your Lordships will be of opinion, that none of the respondents can be examined as witnesses in this cause. At any rate, *2do*, That the petitioner has shown no sufficient reason why Alexander Falconer, William Smith, Thomas Clark, Mr Mackay of Skibo, and Bailie John Bremner, can be put to the trouble and expence of a journey
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to Edinburgh, to undergo a second examination. And, 3th, That the manner in which the petitioner hath laid his complaint, must preclude him from adducing Colonel Munro as a witness, as it is clearly impossible, that the Colonel can support any of the facts, as charged in the petitioner's condescendence, without inferring turpitude against himself.

In respect whereof, &c.

RO. MACQUEEN.

Depositions of some of the Counsellors of Fortrose, referred to in the foregoing Answers.

G Eorge Mackay, Esq; of Skibo, a married man, aged fifty years **A**
and upwards, received without objection; who being solemnly sworn,
purged of partial counsel, examined, and interrogate, Whether or not
he received any letters from, or wrote to Colonel Munro, or any of his
agents, or any of the counsellors of Fortrose, or their doers, upon the **B**
subject of the late Michaelmas election? if he has them not, desired
to repeat their contents; depones, That he received two letters from
Colonel Munro, and one from Mr Ross of Inverchassy, acquainting
him as to the day or days fixed for the election of Fortrose, and no **C**
other; and that these letters mentioned no other particulars: That
these letters are not in his custody here; but whether they are, or are
not amongst his papers at home, he does know; nor did he make any
search for them, as he looked upon them as immaterial. **D**

Interrogated, depones, That he has no note or jotting respecting the
said election; nor never made or had any such, and never saw any
written agreement relative thereto, or heard of such.

Interrogated, When was he first made a counsellor at Fortrose? de- **E**
pones, At Michaelmas last.

Interrogated, Who first proposed to him to be a counsellor, or were
then present? and whether it was proposed in order to bring Colonel
Munro into parliament? depones, Colonel Munro; and that there **F**
was none other present; and that Colonel Munro did not mention
to him then that it was in order to bring him into parliament; but he
understood that the Colonel meant him as a friend to assist him to
that purpose.

Interrogated, At what time the Colonel made him this proposal? **G**
depones, That the Colonel made the above proposal to him at his the
deponent's house; but whether three, four, or five weeks, preceding the
election, cannot be particularly positive. **H**

Interrogated, Whether upon this occasion the Colonel told him he
had hopes of carrying the borough of Fortrose at the last Michaelmas
election? depones, That the Colonel told the deponent, upon several
occasions, he had such hopes; but whether he did so or not at the **I**
above period, he does not remember.

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Interrogated,

A Interrogated, If the Colonel, on these occasions, told him by what means he proposed to carry this borough? — Here it was observed by the respondent's counsel, that he thought it his duty to inform his client, that as this question was clearly calculated to procure an answer which might infer his own turpitude, or at least his accession to immoral practices, he was at liberty to answer the question or not, as he thought proper. Refuses to answer the above interrogatory, for the reason given by the counsel; and that he does not think himself obliged to tell in evidence what passed in private confidence and friendship betwixt Colonel Munro and him.

Interrogated, If he was present at any meetings before Michaelmas last with Mr Munro of Pointsfield, Mr Ross of Inverchally, and Mr D Rose younger of Aitnoch, or any other persons, where measures were proposed for carrying the borough of Fortrose for Colonel Munro? and whether the means proposed were to give money, places, or promises, to the magistrates or counsellors, or any of them? Refuses to answer that question.

Here Mr John Dalrymple, one of the complainer's counsel, informed the witness, that in answering the two above questions, and sundry others which he is now to put to him, does not desire him to accuse himself as either corrupting, or as corrupted; but only to answer the questions put and to be put to him, so far as they can show, that the other counsellors and magistrates either corrupted or were corrupted; or that Colonel Munro, his agents and friends, were therein concerned.

G Observed by the respondent's counsel, That as the question put to this witness is, Whether he was present where measures were concerted for carrying the borough of Fortrose by palpable bribery and corruption? it is impossible for him to answer it in the affirmative, H without directly inferring his accession to a very gross crime, notwithstanding that the complainer has qualified his question as if he only meant to make him accuse third parties. The witness therefore alone must judge of the propriety of every future question of this nature I which may be put to him in the course of his evidence.

Mr Dalrymple then repeated the above two questions, with the qualifications which he had given of them to the witness, and desired him to answer. Refuses to answer.

K Interrogated, Whether, in the above conversations with Colonel Munro, or the above persons, to wit, Inverchally, Pointsfield, or young Aitnoch, or any others, on this subject, another measure proposed for bringing Colonel Munro into parliament was, that he should purchase

purchase the estate of Muirtown from Kilravock, in order to engage A him to give his interest in Nairn to the Colonel?— Here it was observed by the respondent's counsel, That though he apprehends it to be perfectly immaterial to the point in issue, whether this question is put or not; yet he must here repeat what he already observed when B the same question was put to Mr Greig, a preceding witness. For though the commissioner did not on that occasion ordain the answer to be struck out, in respect it was made before the objection was stated; yet as that is not now the case, he begs leave to maintain, that C the above question ought not to be put, in respect of the repeated precedents which occurred in the political controversies in the boroughs of Inverkeithing and Pittenweem.— The commissioner, in respect of the above several precedents, is of opinion, the interrogatory D should not be put.

Lauchlan Grant writer in Edinburgh, doer for the complainer, *protests*, That in respect the commissioner refuses to put the above question to the witness, the complainer shall be at liberty to apply for E redress as accords; and thereupon took instruments in the clerk's hands.

Interrogated, Whether he was in company with the other five new counsellors, or any of them, when it was concerted or proposed F that six of the old counsellors should be removed from the town-council at last Michaelmas election, and Colonel Munro, with five of his friends, put in their places, in order to serve the Colonel's interest? depones, He was not. G

Interrogated, Whether he knows, or has reason to believe, that any person treated with any of the six counsellors at Fortrose, who were dismissed at last Michaelmas election, to engage them, by money, places, or promises to them, to agree to be dismissed from the town- H council, in order to serve the interest of Colonel Munro? depones, he knows not; but declines, and thinks he is not obliged to answer to his opinion and belief.

Interrogated, Whether he knows that any new or old counsellor, I himself excepted, or any third party not a counsellor, endeavoured to engage any of the old counsellors and magistrates of Fortrose to bring in Colonel Munro, and five of his friends, as new counsellors, under offers or promises of money, places, or employments. Here the counsel K for the complainer having observed, that the witness appeared doubtful whether he ought to answer this question, and that his counsel had delivered an opinion to him whether he was bound to answer

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A it or not, he proposes, for the future, that when a question is put to the witness, he may take his choice, either to answer it directly, or to refuse to answer it; or before he takes his resolution upon either, that he may ask his counsel's advice; and that the commissioner may
B mark in his report any of these three steps that are taken by the witness.

Answered by the respondents counsel, That he considered the complainer's observation to be perfectly unnecessary. The advice and
C opinion which he delivered to this witness was given openly and avowedly, in presence of the commissioner, before both parties. It was as follows: That he apprehends it to be an established principle, not only in law, but in sound reason, that no person whatever, much less a
D respondent, can be compelled to answer any question which may directly or indirectly imply his own turpitude, or even his accession to turpitude. This opinion he had again and again occasion to give during the course of this proof; and, once for all, he here declares, That
E he will repeat it as oft as improper questions are put to witnesses; and if it is the commissioner's opinion, that this sacred and fundamental principle in law should be ingrossed in his report, as oft as the respondent's counsel have occasion to lay it down in the subsequent part of this proof, he
F has no sort of objection to its being done. After the above reasoning, the counsel for the complainer having ingrossed or added to the question these words, "*himself excepted*," depones, He knows not.

Here the agent for the complainer observed, That though he
G was now examining the witness as to his knowledge of corruption committed upon or by other people, yet he did not mean to preclude himself in the after part of this examination from putting such questions to the witness as may infer his corrupting or be-
H ing corrupted himself. He does not mean to yield, that these last questions, to wit, those which regard the witness's own conduct, are not relevant; on the contrary, he contends, they are relevant; and finds it right to enter this caveat thus early, lest the defender
I should afterwards pretend, that the complainer had no right to put them. *Answered* by the respondent's counsel, That he apprehends the complainer's observation has been already sufficiently obviated.

K Interrogate, Whether he knows, or was told, or believes, that any person, himself excepted, of the new counsellors, or any other person, gave money or reward, or promises of them, to any of the old counsellors, to new-model the council at last Michael-
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mas election, or to their children, parents, brothers, sisters, A
 wives, or to any in trust for either? depones, That he knows not;
 but declines, and thinks he is not obliged to answer to his opinion
 and belief. When the witness had gone this length in answering
 the above question, the respondent's counsel interposed, and once B
 for all objected, as formerly, That no hearsay-evidence should
 be received into this proof, unless the witness can say, that he
 heard or was told the fact about which he is interrogated directly
 from one of the respondents. As to what the deponent has been C
 told by others, the deponent answers, and depones, He never
 heard it from any of the defenders; but has heard vague reports
 from others; which he did not regard, and does not recollect from
 whom. D

Interrogated, Whether he knows, or has reason to believe, or
 has heard, that any of the new counsellors, himself excepted, or a-
 ny for them, lent or promised to lend money to any of the other
 counsellors or magistrates to serve Colonel Munro's interest? de- E
 pones, That he knows not; heard not; and as to his belief, an-
 swers as formerly.

Interrogated, If he knows, or has reason to believe, or has heard,
 that a sum of money, or quantity of meal or grain, or any other F
 gratuity, was promised by any of the new counsellors, or any for
 them, to the town of Fortrose, for the use of the community? de-
 pones, He knows not, and heard not, further than that he was pre-
 sent when Colonel Munro sent a bank-note of L. 20 Sterling to the G
 Provost of Fortrose, for the behoof of the poor of the town; and that,
 as far as he can recollect, it was after the election complained of,
 and after dinner the day of the election; but declines to answer as
 to belief, as formerly. H

Interrogated, Whether he knows, or has reason to believe, or
 has been told, that a sum of money was lodged, or credit lodged,
 with any person, to be given to the then magistrates and counsel-
 lers, to answer any demands that might be made on them, or to be I
 divided amongst them? depones, That he knows not, and heard
 not; but declines to answer as to belief, as formerly.

Interrogated, Whether he was at Mr Mathieson's house, upon
 Monday the 29th of September last, the day preceding the elec- K
 tion? Whether he staid there all day and all night? and what pass-
 ed on that occasion? and particularly, Whether, before you went
 there, it was concerted betwixt you and the other five new coun-
 B fellows,

A fellows, that all the counsellors then with you should continue there till the election was over? and that each of the old counsellors should have a bed-fellow from amongst Colonel Munro's friends? depones, That he was at Mr Mathieson's the said day; but knows
 B nor heard of no such concert as the above: That it was proposed by some person then in company, that all the counsellors present should remain at Mr Mathieson's till the meeting of the election: That the proposal was immediately cried out against by most of the company;
 C and particularly, that the deponent exclaimed against it; and that thereafter he heard no more of it; and that during the time he was at Mr Mathieson's, he saw or knew of no counsellor being under any restraint: That every person in the house went out and did
 D what they pleased: That he knew of no concert, that each of the old counsellors should have a bed-fellow from amongst Colonel Munro's friends.

Interrogated, When he arrived at Fortrose? depones, The morning of the day preceding the election.

Interrogated, Whether he was, previous to the last Michaelmas, much in habits with the old counsellors of Fortrose? depones, That he was in good habits with some of them, particularly Messrs
 F Smith and Forbes.

Interrogated, If, previous to his coming to town, such a concert might have been made, and yet he not have heard of it when he came? and by this question is meant the above concert for giving
 G bed-fellows to the old counsellors; depones, That he does not think himself obliged to answer to what might or might not be; but only as to what he knows, or does not know.

Interrogated, If he knows, that all the old counsellors slept in
 H Mathieson's all that night? and had each of them a bed-fellow from amongst Colonel Munro's friends? or if he heard it then or since? depones, That he knows not whether all of the said counsellors, or any of them, slept at Mathieson's that night: That
 I he himself went early to bed, had no bed-fellow, and does not know how other people lay; but next morning he heard talking and laughing about bed-fellows; but does not remember any thing particular.

K Interrogate, If he was told by Colonel Munro, who were the member or members of council who brought about his views at Fortrose? depones *negative*; the Colonel never told him; and he never asked him.

Interrogated,

Interrogated, Whether his refusing to answer any of the above A questions has been in consequence of any written opinion he has seen, or any verbal opinion he has heard, from the counsel or agents of Colonel Munro? The interrogatory having been objected against by the respondent's counsel, the commissioner is of opinion the question is improper. B

Here Lauchlan Grant protested, That the complainer should be at liberty to apply to the court of session to be allowed to have the witness examined upon this question; and took instruments for C that purpose: and in order to save a repetition of the same thing, he declares, and desires it to be understood, that whenever the same refusal is repeated, the same protest shall be also understood to be repeated. Lauchlan Grant further protested against the witness, that the complainer shall be at liberty to apply to the court of session to have him re-examined upon the points which he has refused to answer to; and took instruments for that purpose in the hands of the clerk of this commission. E

May 1. 1767.

Alexander Falconer treasurer of the borough of Fortrose, unmarried, aged 23 years or thereby; who being solemnly sworn, purged, *ut antea*, examined, and interrogated, depones, He came upon the council of Fortrose the Michaelmas before last. Depones, That he believes it was by the interest of Mr Greig he was brought into the council. Depones, That Provost Houstoun and Bailie George G Houstoun, his uncles, had not any hand in it, unless Mr Greig might have suggested it to them. Depones, He does not know, that, previous to Michaelmas 1765, or at it, there was any intention to turn the complainer off the council. Depones, He knows nothing H of any resolution taken before Michaelmas 1765, to keep country-gentlemen off the council. Depones, A little time before last Michaelmas, but cannot say how many days or weeks, he heard from Mr Greig, there was an intention to turn the complainer off the I council at last Michaelmas election. Depones, He (Greig) told him, Colonel Munro was to be brought in in the complainer's place. Depones, Mr Greig did not tell him at that time, that any of Colonel Munro's friends were to be brought on the council. De- K pones, Mr Greig afterwards, to wit, the morning of the election, told him, that five other country-gentlemen were likewise to be put on the council. Depones, He considered these five country-gentlemen

A men to be Colonel Munro's friends, to be sure, though he was not told so. Depones, Mr Greig did not give him any reasons for making the alterations in the council; nor did he ask any. Depones, That the night before the election he slept at Mrs Mathieson's house, who keeps a public house at Fortrose. Depones, That Captain Farquhar Douglas was the deponent's bed-fellow that night. Depones, He did not then know, but knows now, that Captain Douglas is married to a sister of Colonel Munro's. Depones, That he does not know himself, but believes the other counsellors who were then in town slept there that night. Depones, That he does not believe that every one of the counsellors who slept there had a bed-fellow from among Colonel Munro's friends. And being desired D to condescend, which of the counsellors had not a bed-fellow from among Colonel Munro's friends? depones, Mr Greig had none.

Interrogated, Whether he observed at Mrs Mathieson's, that no body had access to the counsellors, except those who were friends E to Colonel Munro? depones, That any one had access to himself who wanted it; but as to others, he knows nothing of the matter.

Interrogated, What was the reason assigned at the time for so many of the magistrates and counsellors of Fortrose, who had wives F and families in the town, to have slept that night at the public house, attended by Colonel Munro's friends? depones, That he heard no reason assigned at the time. Depones, He did not know or observe at any other time, that the council of Fortrose residing G in the town slept at Mrs Mathieson's. Depones, That he did not observe the night before the election, that any of the counsellors desired to go home to their own houses.

Interrogated, What is the deponent's opinion or belief of the H whole counsellors of Fortrose, who were then in town, sleeping in the public house, which the deponent says never to his observation happened upon any other occasion? Objected to this question by the respondent's counsel, As facts, and not opinions and beliefs, are I the object of this and every other proof, since the circumstances which create an opinion or belief in one man, might, if known to another, very possibly create in him an opinion or belief totally different from the former. Depones, That it is his own opinion K it was only to keep the counsellors together. Depones, That the day before the election there was a letter wrote to the complainer, which he was not present at the writing of, but believes it was

wrote

wrote by Mr Greig ; and the letter having been presented to him, A
he signed it ; but does not remember who presented it to him.

Interrogate, Whether he had any conversation with his mother,
upon the subject of the alteration that was to be made in the coun-
cil of Fortrose, some short time before the last Michaelmas election? B
and was desired to recollect, and to repeat the import and sub-
stance of that conversation ; depones, He had some conversation
with his mother upon that subject some few days before the last
Michaelmas election ; but that he cannot recollect any part of the C
substance of that conversation. Depones, His mother approved of
his concurring with Mr Greig ; but gave him no particular advice.
Depones, That this approbation of his mother's was before the e-
lection. D

Interrogate, Whether he and his mother, at that time, knew,
that the intended alterations were to be in opposition to the interest
or inclinations of her brothers and his uncles, Provost and Bailie
George Houstons ? depones, That they both did. E

Interrogated, What were the reasons that induced the deponent
to agree, and his mother to approve, of the measures which had
been resolved upon, in opposition to her brothers, and his uncles ?

Here the respondent's counsel observed, That however proper F
this question might be, as to the reason which induced the wit-
ness himself to adopt an interest opposite to that of his uncles ;
yet he does not so clearly comprehend the meaning of calling upon
him to assign his mother's reasons for giving her approbation. G
In the whole of this cause, and particularly since the commence-
ment of this proof, the complainer seems to have assumed it as a
proposition not to be controverted, That Provost Houstoun, and
his brother George, had alone a title to the absolute disposal of H
the borough of Fortrose ; notwithstanding of which, the respon-
dents, Mess. Greig and Falconer, do apprehend, that they had the
same just title to dispose of this borough that has been assumed
by the Mess. Houstouns ; and they do not see that there was any I
thing unnatural and unreasonable in Mrs Falconer's approving
of the conduct of Mess. Greig and Falconer, the one her son, and
the other her son-in-law, though they had adopted an interest op-
posite to that of her two brothers. The question, therefore, is un- K
necessary and improper : in as far as it respects the witness himself,
he is best judge what answer to make. The witness being remo-
ved when the above observation was made, and now called in, de-

C

pones,

A pones, It was owing to a disgust taken against Sir Alexander Grant.
 Depones, The reason of his disgust against the complainer was,
 the complainer's behaviour to his the deponent's uncle, John Hou-
 stoun, at London, late a counsellor of Fortrose. Depones, The e-
 B vening of the election, Thomas Clark, one of the counsellors, came
 home with him ; which Thomas Clark is a weaver at Rose-
 marknie.

Interrogate, Whether, when Clark and he came home that even-
 C ing, there was any conversation betwixt them two and the depo-
 nent's mother, concerning what had been done that day ? particu-
 larly, Whether either of them told his mother what had been done ?
 and, in general, to repeat the conversation which passed betwixt
 D them three on the subject of the day's work ; depones, There was
 no conversation betwixt Clark and him. Depones, That when
 he came home, he was so warm, he sat at the other end of the
 room : there was conversation betwixt Clark and the deponent's
 E mother ; but he took no share in it. Depones, He cannot be cer-
 tain whether he heard the conversation or not ; but if he did, he
 does not now recollect.

Interrogate, Whether they whispered, or spoke in their common
 F tone of voice ? depones, They did not whisper.

Interrogated, What was the size of the room in which they were ?
 depones, That it was a large room.

Interrogate, If Mr Greig told the deponent, that if his uncles,
 G Provost and Bailie George Houstouns, would afterwards come in-
 to, or approve of, the measures which they had resolved upon,
 Mess. Ray and Greig had taken the same care of the Provost and
 Bailie's interest in the transaction as Mess. Ray and Greig had done
 H of their own ? depones, That Mr Greig did ; of which he has only
 a faint remembrance.

And the copy of a letter, of the 29th September last, from Mr
 Greig to Bailie Houstoun, which Mr Greig, upon his oath, has ad-
 I mitted to be a true copy, word for word, of the original, being
 shown to the deponent, and he being desired to read and consider
 that copy, was interrogated, What he understands to be the sense
 or meaning of the following words, " Your interest will be pro-
 K " perly secured, if you do, which I have already taken care of ; I
 " therefore beg, for God's sake, and your own, that you may
 " comply."

Here

Here the respondents counsel (the witness being received) moved, That the commissioner, before putting this question, would determine the propriety of it: more especially as, immediately before the question was wrote down, the following question was put to the witness, Whether or not he had ever seen the original letter, of which the above is a copy? to which he made answer, That he had never seen such letter. This question and answer the complainer did not chuse to take down in writing; but, for the truth of the fact, the respondents appeal to the commissioner. The commissioner does acknowledge, and certify, That before the above interrogatory was taken down in writing, he did ask the witness, If he was present when the original (of which the paper now shown him is a copy) was written, or had ever seen the principal? and that he answered, upon oath, That he was not present when the principal was written, and had never seen the original; and that the taking down this in writing was not opposed by the doers for the complainer; and allows the interrogatory to be put. The witness, after having been called, depones, He does not know in what manner he Mr Greig could take care of his Bailie George Houstoun's interest.

Interrogate, As the paragraph of the letter bears, That Mr Greig had then actually taken care of Bailie Houstoun's interest; if he the deponent knew that Mr Greig had taken care of his interest? depones, He does not.

Here it was observed by the respondent's counsel, That before this last question was put to the witness, he insisted, that Mr Colquhoun Grant writer to the signet, one of the complainer's doers, and who for the time was interrogating the witness, should reduce his question to writing; which Mr Grant opposed; and the question being then put *viva voce*, and the answer made to it, which has already been taken down; the respondent's counsel having then insisted, that the question should be reduced to writing, Mr Grant, in order to make the answer adapted to his question, endeavoured to dictate to the clerk a question totally different from that which he had formerly put to the witness *viva voce*; for the truth of this fact an appeal is made to the commissioner. The respondent's counsel cannot help further observing, that since the commencement of this proof, repeated attempts have been made to involve the witnesses in palpable contradictions. The last question affords a lively instance of this, since the same fact therein contained was put to this witness, and answered by him, in the question

A question immediately preceding but one. To which it was answered, That as it appears upon the face of this report, that much unnecessary altercation and disputes have happened on the part of the respondent, clearly calculated to perplex the proof, and to suppress evidence, by instructing the witnesses to refuse to answer questions, which, by the law and practice of the country, they were bound to answer; the complainer does not chuse to follow the example of the respondents, by long, useless, and groundless dissertations; and leaves it entirely to the commissioner to report to the court what he thinks just and necessary; and particularly to report, whether or not the complainer's doer did not agree to let the commissioner dictate his interrogatory, though he apprehends he was by no means bound to do so. Replied by the respondent's counsel, That he again calls upon the commissioner to certify to the court, whether the fact averred by him is true or false.

The commissioner having considered the above debate, must certify, That the said Mr Grant did insist, that it was his exclusive privilege to state his interrogatories in his own words to the witness; but as the commissioner, on his first entry upon this proof, and that there were two gentlemen learned in the law, one employed on each side in the cause, that he, in going through said proof, would receive the interrogatories from them, and them only; reserving to the agents, and other assistants on both sides, to suggest to them what they saw material; and recommended the observance of such conduct for the future.

Interrogated, If it is his opinion, that Clerk Greig could secure George Houstoun's interest with Colonel Munro, any other way than by procuring for him, from him the Colonel, money, or a post, or an employment? Here it was observed by the respondent's counsel, that the witness had already deponed, that he does not know in what manner he Mr Greig would take care of his Bailie George Houstoun's interest; this question therefore is already answered; and therefore unnecessary, and ought not to be put? Depones, He does not know whether it could be in his power or not.

Interrogated, Supposing he the deponent himself had received a letter from Clerk Greig, of the date the letter now shown to him bears, viz. 29th September 1766, above mentioned, in which the clerk told him, that he had properly secured his the deponent's interest; then, whether he would understand the clerk's meaning to be, that the Colonel was to give him the deponent money, or a post,

or an employment? depones, That he would understand by the A letter, that he would take care of his interest some way or other.

Interrogated, What he means by some way or other? and particularly, Whether he was to get a favour in money-matters? depones, He means by some how or other, the best way the clerk B could.

Interrogated, What he means by the best way the clerk could? and particularly, Whether one of these ways was, to get him money, or a post, or an employment, from Colonel Munro? depones, C That he does not mean by it, that he was to procure him from the Colonel any money, post, or employment, but any other way he Mr Greig could serve him.

Interrogated, In what way he thinks Colonel Munro could serve D his the deponent's interest, except by giving him money, place, or employment? depones, He knows not any other way in which the Colonel could serve him.

Interrogated, If he knows or has reason to believe, that L. 100 E Sterling, or some other sum, or any place or employment has been paid or promised to Andrew Bremner, one of the late counsellors of Fortrose, for voting himself off the council, and agreeing that another should be put in his place? depones, He neither knows nor F has reason to believe it.

Interrogated, If he heard it from any one? depones, That he heard it as an idle talk among the common people.

Interrogated, If he knows, believes in his conscience, or has rea- G son to believe, that any money was given or promised, or any post, place, or employment, promised by Colonel Munro, or any of his friends or agents, to all or any of the magistrates or counsellors who concurred in making the alterations at Michaelmas last in the H council of Fortrose, the deponent himself excepted? depones, He does not know it, nor does he believe it.

Interrogated, Whether he knows, or believes in his conscience, that any money was given, or promises, to any of the wives, parents, sisters, I or brothers, of any of the counsellors of Fortrose, on occasion of the last election? depones, That he does not know or believe that there was any given or promised.

Interrogated, Whether he knows, or has reason to believe, that K any of the new counsellors, or any for them, lent, or promised to lend, money to any of the other counsellors or magistrates, (himself excepted), to serve Colonel Munro's interest at the last election? depones,

D

That

A That he does not know or believe that any sum of money was lent, or promised to be lent, as above.

Interrogated, Whether he knows, or has reason to believe, that a sum of money, or quantity of meal or grain, or any other gratuity, was
B promised by any of the new counsellors, or any for them, to the town of Fortrose, for the use of the community, previous to the last Michaelmas election? depones, That he knows not, nor has reason to believe there were any.

C Interrogated, Whether he knows, or had reason to believe, that, previous to last Michaelmas election, a sum of money was lodged, or credit given or lodged, with any person, for the use of the community, or of any of its town-council, (himself excepted), to answer demands
D that might be made on them, or to be divided amongst them, in order to engage them to Colonel Munro's interest? depones *negative*.

Interrogate, What he has heard on the above subjects, and from whom, either before or since last Michaelmas election? — Objected to
E this question by the respondent's counsel, in so far as it respects hearsay, since the late election. Depones *negative*, both before and since the election.

Interrogate, Whether, since last Michaelmas election, he knows, or
F has reason to believe, that money, or other rewards, were given, or promised, or lodged, or credit given for that purpose, for the use, either of the community, or the individuals of it, or to their near connections, as above mentioned, in consideration of the services agreed by any of
G the counsellors to be done, at last Michaelmas election, for Colonel Munro? Objected to this question by the respondent's counsel, as no facts which happened since the election can be the subject of this proof. Depones, He does not believe there was any.

H Interrogated, Whether he knows, or has reason to believe, that any money, or security for money, was given or promised to his mother, before last Michaelmas election, to gain her son the deponent's vote in modelling the town-council of Fortrose at last Michaelmas election at
I Fortrose?

Objected to this question by the respondent's counsel, and observed, That he will venture to say, this is one of the most extraordinary and unprecedented questions that ever was put to any witness. He is call-
K ed upon, not only to accuse himself, but what is still more shocking to human nature, he is called upon to load with guilt his parent, to whom he owes his birth. The respondents do not chuse to enlarge any further on this subject, than to call on the commissioner to pronounce judgement as to the propriety of this question. Answered for the complainer,

complainer, That before answering this objection, he desires it to be A remembered, that the objection was wrote and dictated in the hearing of the witness. Replied by the respondent's counsel, That as the above answer made by the respondent's counsel is purely calculated to insinuate something improper in his conduct, he apprehends it to be a B point established in law, That no witness can be compelled to accuse either himself or his parent, as has been repeatedly determined by judgements of the supreme court. The commissioner will admit, that the counsel of both sides do know the law with respect to the above C interrogatory better than he does; but is of opinion the question may be put; but that the witness may answer it or not, as he sees proper. Refuses to answer.

Interrogated, Whether he has received signs from any one in this D room, when he should answer, or when he should refuse to answer?

Before this question is put to the witness, the respondent's counsel calls upon the commissioner to certify to the court, Whether, E since this witness was first brought upon oath, he has, directly or indirectly, discovered any one circumstance to induce him to believe, that there is the least foundation for the strong insinuation contained in the above question? The commissioner does certify, F that he has not discovered any the least foundation for the above insinuation since the witness has been put upon oath; but would recommend to both parties to circumscribe themselves to what is in the cause, and the subject matter of this proof. However, allows G the interrogatory to be put. Depones *negative*.

Interrogate, Whether he knows, or has reason to believe, that any money, or security for money, was given or promised to any other than his mother, before last Michaelmas election, to gain his H the deponent's vote in modelling the town-council of Fortrose at last Michaelmas election? and particularly, If any such money or security was given or promised to Mr Greig or Mr Ray, for the deponent's behoof? The question already answered. I

Depones, That he at present keeps the books of the town of Fortrose, *i. e.* The treasurer's books; but cannot at present say, what the yearly revenue may be. Being interrogate, and desired to specify, so far as he can remember, the extent of the yearly revenue K or common good of the town? depones, He can give no guess or notion of it, having only been appointed treasurer last Michaelmas election; and that they have not since called their last treasurer to account.

A account. Depones, That he has received about L. 10 of the town's revenue since the said election; and that he has expended much about that sum on the town's account. Depones, That the most of the above said sum which he received, did arise from the customs of B thet own.

Interrogated for the respondents, If he knows, that Mr Ross of Kilravock owed money to his mother Mrs Falconer? how much? and how long it has been due? depones, That he knows, C that Mr Ross of Kilravock is due his mother money: That he knows, that before Mr Ross of Kilravock gave a draught to her lately on Mr Frazer of Balnain, the debt at that time would have exceeded L. 300 Sterling; and believes the foundation of the above D debt has been due since the 1758 or 1759. Depones, That he knows that Mr Greig did correspond with Kilravock about the above debt, and waited of him on occasions at his house thereanent. Depones, That the above draught upon Balnain was for L. 150 Sterling, and E was paid to Mr Greig at Edinburgh, part of which he expended there, on his and the deponent's account, and the greatest part he brought home. Depones, That what was brought home of the contents of the said draught was applied in payment of a debt due F to Mr Wood, the parish-minister, and in procuring a draught in favour of the deponent on London, for money he was due for goods sent him from there, he being a shopkeeper: That the amount of the debt paid to Mr Wood was above L. 50 Sterling; and for which G his mother and Mr Greig were bound by bill, though the money was borrowed for his the deponent's use: That the bill on London, in the deponent's favour, exceeded L. 22 Sterling; and which bill was drawn by Mr Colvill at Fort-George, upon Mr John Bodington at H the Tower of London.

Interrogate, depones, That he has not observed Mr Greig to have greater plenty of money, or to live more extravagantly, since last Michaelmas election, than he had, and did, preceding that I period.

Interrogate on the part of the complainer, Whether Mess. Greig or Ray were in use to trust him with their secrets concerning the management of politics in Fortrose? depones, That he believes they K trusted him with some of them, that is, that Mr Greig trusted him with some of them.

Interrogated, Whether he thinks that Mr Greig, or Mr Ray, or any others of the counsellors, might have treated with Colonel Munro

Munro or his friends for bringing about the last Michaelmas election, by the influences above mentioned, without his knowing any thing of it? — Observed by the respondents counsel on this question, that the witness has already deponed, that he neither knows or believes, that the election complained of was brought about by money, promises, &c. This being the case, the present question is only calculate to involve the witness in a contradiction; and therefore is improper, as it is in effect already answered. — Depones, He thinks they could not. C

Interrogate, Whether his refusal to answer the question put to him about his mother, as above, was, in the consequence of his own thought, or of his having been told by any other person, that he ought to refuse to answer questions on that head? depones, That it was in consequence of his own thought. D

Interrogate, Whether before this examination he was told by any one, that he was not obliged, or ought not to answer such question? and who that person was? E

Objected to this question by the respondents counsel, That it ought not to be put, unless the counsel and agents for the witness, who is a respondent, are excepted; and therefore, unless this exception is made, he craves the commissioner's judgement on the propriety of it. F

The commissioner is of opinion, that the witness is not obliged to discover what advice he has had, either from his counsel or agents in this affair; but as to others, allows the interrogatory to be put. And interrogate respecting others, depones *negative*. *Causa scientie patet, &c.* G

After the above examination was finished, Lauchlan Grant writer in Edinburgh, as doer for the complainer, protested for liberty to apply to the court of session, that either the defender, the preceding witness, may be held as confessed for refusing, or be re-examined, on the question which he has refused to answer; and thereupon took instruments. I

Inverness, 4th May 1767.

Bailie John Bremner, a married man, aged 31 years, or thereby, received without objection; who being solemnly sworn, purged of K partial counsel, and interrogate, depones, That he has been a counsellor at Fortrose for seven or eight years past: That his father Bailie

E

John

A John Bremner was very assisting to the complainer in bringing him
 into parliament, so far as regards the borough of Fortrose. Depones,
 That a little while before Michaelmas 1765, when Lord Fortrose was
 in the country, it was proposed to the deponent to bring some gentle-
 B men of the name of *Mackenzie* into the council at that Michaelmas
 election; and the deponent agreed to it. Depones, That this propo-
 sal was opposed by the majority of the council; and, as it appeared to
 the deponent, by Provost Houston, his brother George, Mr Ray, Mr
 C Greig, and Thomas Clark, and his brother Andrew Bremner. De-
 pones, That some years ago, how many he cannot remember, a peti-
 tion was given in to the magistrates and town-council of Fortrose,
 wherein a number of the inhabitants complaining there were sundry
 D country-counsellors in the council: That there were sundry names at
 this paper of people who afterwards denied they had signed it: That
 he remembers Mr Mackenzie of Fairburn gave a reproof to Robert
 Davidson for having signed for several persons who did not sign them-
 E selves. Depones, That Fairburn was in the interest of the complainer;
 and believes he was then provost. Depones, That two or three years
 ago, although he is not quite certain as to the time, he heard a pro-
 posal, over a glass, to keep country-counsellors off the council. De-
 F pones, That the person who chiefly promoted this proposal was Pro-
 vost Houston. Depones, That he imagines, but cannot be positive, or
 certainly say, that Mr Ray and Mr Greig approved of it. Depones,
 That he does not remember the name of any particular counsellor who
 G opposed it; by which he means, he does not remember that any
 one opposed it. Depones, That this proposal was approved of in ge-
 neral by the council, but not in general by the inhabitants, by reason
 that it was thought intended to favour a junto. Depones, That by
 H a junto he means to say, it was a junto to serve the complainer.
 Depones, He believes he was in the knowledge of the intention
 to make alterations in the town-council at last Michaelmas, ten days,
 or thereabouts, before the election. Depones, That it was Captain
 I Ray who first told the deponent of this intention; and that thereafter
 he the deponent spoke to other counsellors about it, whom he knew
 to be in the same interest; by which he means the interest of Colonel
 Munro, in opposition to that of the complainer. Depones, That before
 K the last election, he was acquainted with Pointsfield, Kindeace, and a little
 with Sir Harry Munro, but not with Inverchassy or Skibo, or Colonel
 Munro; which last he never saw till the day before the election. De-
 pones, That he has been at an entertainment with Pointsfield, both at
 his

his own house, and at Fortrose. Depones, That Pointsfield did not, A of far as he remembers, propose to him, at any of these entertainments, to make him Pointsfield a counsellor of Fortrose. Depones, He has heard it was said Pointsfield had made such a proposal to his father Bailie Bremner; but never heard so from his father, so far as B he remembers. Depones, He thinks he has a connection with the name of *Mackenzie*, because his wife is daughter to Mr Mackenzie, late of Groinard.

Interrogated, What were the reasons assigned for taking into their C council six country-gentlemen, who lived at a distance, and who had no connection with their town, when it had been so lately resolved upon to keep off country-counsellors, and when such a stand had been made against admitting to their council some gentlemen of the name of D *Mackenzie*, whose estates lay contiguous, and who had a natural connection with the town? depones, That, for his own part, he was much disgusted with Sir Alexander Grant, and his friend Grangegreen; and believes others were so too; and therefore he, and he believes E others too, resolved to take every probable way to disappoint him, and bring in Colonel Munro; that is, to secure Colonel Munro's interest in the borough. Depones further, in answer to the interrogatory, That he considered the five new counsellors to be Colonel Munro's F friends; and that by introducing them to the council, he thought they would serve the Colonel's interest.

Interrogated, Whether he was told, or has reason to believe, that the gentlemen of the name of *Mackenzie*, who proposed to come into G their council at Michaelmas 1765, were in Sir Alexander Grant's interest, or in opposition to his interest? depones, That he knows, or rather was told, that these gentlemen were in opposition to the com- plainer's interest. H

Interrogated, As these gentlemen were in opposition to Sir Alexander Grant, lived near their town, and had a natural connection with it, what was the reason of their resorting to strangers, who lived at a distance, to form an effectual opposition to Sir Alexander Grant? de- I pones, That for his own part he was not for opposing bringing in the above gentlemen of the name of *Mackenzie*; but does not know what reason the other counsellors had for introducing the new counsellors; nor can he account for their conduct. K

And being shown a letter in process, signed, *Lewis Ray*, and *John Bremner*, &c. without date, and addressed on the back, *To Sir Alexander Grant*, and marked by the commissioner and deponent as relative to

A to this oath, depones, That this letter was wrote in the house of Mrs Mathieson at Fortrose, the day immediately preceding the last Michaelmas election; and that it was sent off to Sir Alexander Grant, who was then supposed to be on his way to Fortrose. Depones, He believes, B (but does not know to his knowledge), that the most part of the counsellors slept at Mathieson's that night: That he did so himself; and his bed-fellow was Captain William Douglas, whose brother is married to Colonel Munro's sister.

C Being interrogate, and desired to condescend on any of the counsellors who did not sleep there that night, depones, That he did not go to their bed-fides; and therefore cannot tell. Depones, He thinks he was told, that Jonathan Forbes did not sleep there that night; D but does not remember at what time he was told this. Depones, That some of the counsellors, of whom he was one, previously agreed to write the letter to the complainer, and made a scroll of it, which scroll was afterwards transcribed at Mathieson's. Depones, That the E persons who so previously agreed, were Captain Ray, Mr Greig, William Smith, and the deponent: That this previous agreement was some days before the election, but cannot certainly say how many. Depones, He believes Mr Greig and Captain Ray were the persons F employed by those in Colonel Munro's interest, to carry on the treaty with the Colonel for disappointing the complainer.

Interrogated, What was the nature or import of that treaty or transaction, so far as the deponent knows, or has been told by Mess. G Ray and Greig? depones, That they complained of Sir Alexander Grant, and esteemed Colonel Munro as a better man. Depones, That he knows nothing at all of what communing might have passed betwixt Colonel Munro and Mess. Ray and Greig.

H Interrogated, What report Mess. Ray and Greig made to the deponent, when they returned from Colonel Munro, or any of his friends, of the communings that had passed between them in relation to Colonel Munro, and so many of his friends being introduced all at I once upon their council? — Before answering this interrogatory, the witness interposed, and said, he did not understand what was meant by a treaty. Here it was moved for the complainer, that the witness might be removed. Accordingly the witness was removed, and then K called in, and the last interrogatory was read over to him again. Depones, That he knew nothing of so many new counsellors being to be brought upon the council, till the day of the election. Depones, That

he

he does not know when Ray and Greig went to Colonel Munro's; A
nor, when they returned, did they tell him what had passed.

Interrogated, If he, the deponent, and a majority of the council, ap-
proved of what had passed betwixt Colonel Munro and them, after the
Colonel had come to Fortrose, or at any other period? B

Objected to this question by the respondent's counsel, as being insi-
dious; since it supposes, that something had passed betwixt Colonel
Munro and a majority of the council, though the witness has deposed
to no such thing. — Here too the respondents take this opportunity of C
observing, that several very insidious questions, of the same nature with
the last, have already been put to this witness, which were permitted to
pass without objections, purely to save time, and in hopes that the com-
missioner would have checked them, and ordained fair questions to D
be put; before, therefore, this witness can be asked, whether a majori-
ty of the council approved of what passed with Colonel Munro? it is
insisted, that the commissioner shall first ask the witness, whether any
thing at all passed betwixt Colonel Munro and them? E

Answered, The witness has already confessed, that there was a
treaty; for he says, that Ray and Greig were employed to carry
it on. The intention of this question, and of sundry others, which
probably may follow, is to find out what the terms and conditions F
of that treaty were; so that the question is a natural consequence
of an answer formerly given.

Replied, That to call upon a witness to explain, upon oath, the
terms and conditions of a treaty, after he has deposed he does not G
understand what is meant by a treaty, seems so extremely absurd,
that the matter is left with the commissioner, without further ar-
gument; since, suppose he had understood the meaning of the word
treaty, it surely is in his power either to correct or explain him- H
self.

The commissioner appointed the last interrogatory to be amend-
ed; and the first question to be put to the witness to be, Whether
he knew or heard of any proposals made by Colonel Munro, or his I
friends, to any of the counsellors, after the Colonel came to
Fortrose? And the question being so put to the witness, depones,
That he neither knows nor heard of any proposals made by the
Colonel or his friends to any of the counsellors, nor by the coun- K
sellors to the Colonel.

Interrogated, If he knows, has reason to believe, or heard, that
L. 100 Sterling, or some other sum, was given or promised, direct-
ly

A ly or indirectly, to his brother Andrew Bremner, for voting him-
 self out of the council of Fortrose, and for concurring to support
 the interest of Colonel Munro? depones, That he read it in the
 complaint, that his brother got L. 100 Sterling. Depones, That
 B he heard a report to the same purpose; but believes, in his heart,
 it came from the complainer's friends. Depones, That he does
 not know, and that he has not reason to believe, that his brother
 got money upon the above account. Depones, That he does not
 C know that money was promised or secured to his brother, nor has
 reason to believe it; but has heard it, though he believes the re-
 port came from Sir Alexander Grant's friends.

Interrogated, If he knows, has reason to believe, or has heard,
 D that any sum or sums of money, office, place, employment, gra-
 tuity, or reward, or any bond, bill, or note, or any promise of
 any sum or sums of money, office, place, employment, or gratui-
 ty whatever, was made or given to all or any of the ten counsel-
 E lers of Fortrose, who signed the letter above mentioned, the depo-
 nent himself excepted, or to any other person or persons, for the
 use, benefit, or advantage, of the said nine counsellors, to bring
 about the alterations which were made at last Michaelmas election
 F in favour of Colonel Munro? answers, That he refuses to answer to
 common report, and also to his own belief; and depones with re-
 gard to his own knowledge, He does not know of any such prac-
 tices.

G Interrogated, If he knows, or has occasion to believe, or has
 heard, that any sum or sums of money, meal, grain, or other
 gratuity, was promised or agreed to be given for the use and be-
 hoof of the community of Fortrose, in order to bring about the al-
 H teration made at last Michaelmas election? depones *negative*.

Interrogated, If he was told by any of the magistrates or coun-
 sellors of Fortrose, either before or since the last Michaelmas elec-
 tion, that they actually received or were promised any sum or
 I sums of money, or other gratuity or reward, to influence their
 conduct at last election? answers, That he has answered it already.
 Here the question was repeated to the witness; and he was put in
 mind by the complainer's doers, that what he had heard from com-
 K mon report, and what he heard from the defenders themselves, were
 very different things; and that although he had refused to answer
 to the former, he had not as yet refused to answer to the latter:
 Answers, He does not think himself bound to answer the question,
 in

in so far as regards what he has been told since the election; and A therefore refuses to answer that part of it. Being then desired to say, What he was told before the election by any magistrates or counsellors upon the subject of the question? depones *negative* to that part of the question. B

Interrogated, Whether he knows, has reason to believe, or has heard, that money, place, or employment, was offered by any of the six new counsellors, or any for them, to any of the old counsellors, or to any for them, (himself excepted), or to any of the C dismissed counsellors, to influence their conduct at the last Michaelmas election? depones, As to common report, he does not chuse to depone; but does not know, nor was told by any of the parties, that offers were made. Depones, That he does not know that any D money, or sums of money, was lent to any of the counsellors of Fortrose, in order to influence their conduct at last election. Depones, That at the last Michaelmas election of Fortrose, he was chosen one of the bailies; and he does not remember any motion E made in the council that day of chusing Mr Stewart Mackenzie, Lord Privy Seal, to be of their council, either by Provost Houstoun or any other gentleman. Depones, That he never knew nor heard of an oath or promise made by the counsellors of Fortrose to keep F secret their transactions, further than to conceal their intentions of making any alteration in the council till the election should be over; and that they only promised this to one another; but took no oath to this purpose, so far as he knows. G

Interrogate, depones, That the refusal to answer as above to what he was told by any of the magistrates or counsellors, subsequent to last Michaelmas election, arises from his own opinion, that the complaint relates to things at or before that election; and H therefore he does not think himself obliged to answer to any thing that happened after it. Does not remember, whether he was told so by any other person; but it was always his own opinion.

Interrogated for the respondents, Whether, on the day of the election complained of, the day preceding, or on any other occasion whatever, he saw Colonel Munro pull out a purse of gold, and put the money upon the table, either in the house of Mrs Mathieson of Fortrose, or of any other place whatever? depones, He never did. K

Interrogated, Whether the paper, intituled, *An representation by several of the inhabitants of Fortrose against admitting country-counsellors*, already shewn to him, was intended to promote the interest of the complainer,

A complainer, or to put an end to the interest of the complainer's friends in Fortrose? depones, It was intended against the interest of the complainer in Fortrose, so far as he understood it; and in particular, it was calculated to hurt Fairburn's interest in Fortrose.

B Depones, That some time after Sir Alexander came to this country last year, several of the council went, at two different times, to wait on him at Dalvey, at either of which times it was not convenient for him to go, because of the situation of his family; but, some

C time before the election complained of, the deponent went by himself to wait on the complainer at Dalvey. After dismounting, he found the complainer's brother, Grangegreen, at the gate, and the chaise yoked. The common compliments being over, he told

D Grangegreen his errand; who answered, That the complainer was gone from home; and that he himself was obliged to wait of some London merchants, to whose company he had not the assurance to introduce the deponent; upon which he made him a bow, and

E went away, without asking him into the house; and that on this occasion the deponent was very wet, it being a very rainy day. Depones, That he heard that Mr Baillie of Rosehall affected to have an interest in Fortrose, and was considered to be a friend of the

F complainer; but that he had no cause to think himself so, from any thing he had ever heard Mr Baillie say. Depones, That the complainer never asked him for his interest in Fortrose. Depones, That he heard it proposed By Provost Houstoun, in Mr Greig's house,

G where Mess. Ray, Greig, Smith, and Andrew Bremner and George Houstoun, and the deponent, were present, that they should go to wait of the complainer at Dalvey; to which they all agreed; and probably the deponent did so too, though he was generally silent

H on these occasions. Depones, That at this time, as far as he can remember, the proposal of waiting of the complainer, was occasioned by a letter which the Provost pulled from his pocket, and which he had received from the complainer, inviting the council to wait

I of him at Dalvey. Depones, That he did not consider himself to be of Provost Houstoun's interest in Fortrose, but one of those who wished to revolt from the complainer's interest. Depones, That he believes he would have joined the interest of any good man against

K the complainer. Depones, That, previous to Whitsunday 1766, he often heard his brother Andrew say, that he intended to go abroad; and he believed him at last to be serious in this resolution, because he could not agree with his landlord Provost Houstoun about

bout his farm; and he laid down no crop after last Whitsunday, A having then displenished, and disposed of his cattle and labouring utensils, and household-furniture.

Interrogate, As he has already said, that he believes Mr Greig and Captain Ray were the persons employed by those in Colonel B Munro's interest to carry on the treaty with the Colonel for disappointing the complainer; and as he also has said in a subsequent part of his oath, that he did not understand what was meant by a treaty; he is now desired to reconcile these two, and say what he C means by Mess. Ray and Greig being employed to carry on a treaty with the Colonel? depones, That when the above interrogatory was stated to him first, he thought the state of the question was, viz. Who were those employed to carry or bring about the Colo D nel's interest amongst the counsellors, that is, to know of them if they would be willing to second his the Colonel's interest?

Interrogate, Whether he understood that Mess. Ray and Greig were to receive any money from Colonel Munro, to be by them E distributed among the counsellors, in order to secure an interest for the Colonel in Fortrose? depones, He did not.

Interrogate for the complainer, Whether he expects to receive any money, post, employment, or other favour, from any of the F new counsellors, or any for them, in reward of services which, at or before the last Michaelmas election, he agreed to perform, in new-modelling the town-council?

Objected to this question by the respondents counsel, as impro- G per, since it is no more than asking the witness, what his hopes are now. It is well known how sanguine a man's hopes and expectations may be, without the least foundation; particularly in matters of politics. As he therefore has already deponed, that he H neither received money, or good deed, or promise of them, on account of the late election, the present question is incompetent, and ought not to be put. Says, He does not chuse to answer the question. — Here the complainer desired it to be remembered, I that while the objection to this last question was dictated and writ, the witness was present. — Answered by the respondents counsel, That the complainer's counsel never moved, that the witness should be removed on this occasion. If he had, probably it K would have been agreed to; though, as this witness is one of the respondents, he apprehends, that he is well intitled to have the opinion of his counsel on the propriety of every question put to G him,

A him, if he the respondent entertains any doubt of the competency of it.

Interrogated, Whether the day of the last Michaelmas election, or any day before it, he was, by any hint, insinuation, or other-
B wise whatever, made to expect money, post, or employment, or other favour, to engage him to new-model the council? — Ob-
C jected to this question by the respondents counsel, as calculated for some tortious purpose, since it has again and again been answer-
ed; besides, the witness has already deponed, that he would have joined the interest of any good man against the complainer; consequently neither hints nor insinuations were necessary for this purpose. — Says, He does not chuse to answer this question.

D Interrogated, Whether he knows, or has reason to believe, that any other of the magistrates and counsellors expect money, employment, post, or other favour, from Colonel Munro, or his friends, in consideration of the services which, on the day of or
E before last Michaelmas election, they agreed to do for the Colonel? — Objected to this question by the respondents counsel, as insidious, and calculated to involve the witness in a contradiction, since it is impossible for him to answer in the affirmative,
F without flatly contradicting what he has already sworn to. The question is therefore unnecessary. — Says, He does not chuse to answer this question.

Interrogated, Whether he knows, or has reason to believe, that
G any other of the counsellors or magistrates, on the day of or before last Michaelmas election, were, by any hint or insinuation, or any other manner of way, made to expect money, post, employment, or other favour, from Colonel Munro, or his friends, to induce
H them to new-model the council? — Objected to this question by the respondents counsel, *ut supra*; who observed further, that several of the last questions put to this witness are evidently calculated to tease and perplex him; and he submits, not only to the
I commissioner, but to the court, if the complainer's sole object in putting such questions is not to insnare and intrap the witness, rather than to expiscate the truth, since he has already answered every fair question which, directly or indirectly, could give the
K complainer any satisfaction in this matter, without involving himself in perjury. — Says, He chuses not to answer this question. — The complainer desires it may be remembered, that the witness was present when the objections to the three last questions were dictated and writ. The respondents desire it may be remembered,

bered, that when the objections, answers, &c. to the three last A questions were dictated, and taken down, the complainer's counsel neither directly nor indirectly moved, that the witness should be removed. — Depones, That he believes, that it was either Mr Ray or Mr Greig that first proposed to the deponent to bring into B the council the other five new counsellors that were brought on with Colonel Munro ; and that on the morning of the election day. Depones, That there was no person present at the interview betwixt Grangegreen and the deponent, above deponed up- C on. *Causa scientiæ patet.*

Inverness, the 7th May 1767.

Thomas Clerk, one of the present counsellors of the borough of D Fortrose, married, aged 30 years, and upwards ; who being solemnly sworn, purged *ut supra*, and interrogate, depones, That he is a weaver by trade in Fortrose. Depones, He was made a counsellor either in the 1760 or 1761, and has continued since to be one. E Depones, He believes he was brought into the council by the interest of Provost Houstoun. Depones, He was informed of the intended alterations in the town-council a few days before Michaelmas last ; and that Mr Greig was the person who informed F him. Depones, That Clerk Greig told him at first, that there was to be a division in the council ; but what passed afterwards at that time, he does not remember. Depones, That at this time Provost Houstoun, and his brother George, were gone to Dalvey, G to wait on the complainer.

Interrogated, What arguments did Clerk Greig use to persuade the deponent to abandon Provost Houstoun's interest, who had brought him into the council ? depones, That what weighed with H the deponent, in his own mind, to be against the complainer, was, that in the 1765, when he was in the castle, he was as eminent a friend to the complainer as any one ; but, notwithstanding this, he was after this looked upon as a cipher, and his interest never I asked ; for which reason, when Clerk Greig asked him to vote with him for Colonel Munro, he told him readily, he would do so. Depones, He does not remember, that Clerk Greig used any arguments with him. Depones, That before this conver- K sation, he looked upon himself to be a friend to Provost Houstoun, and that Provost Houstoun was a friend to him.

Interrogated,

A Interrogated, If he did not confider Provost Houfton as his friend, and more capable to do him fervice than Clerk Greig, till the above-mentioned converfation, a few days before the election happened, between Mr Greig and him? depones, That he looked
 B upon himfelf to be upon his own bottom, and at liberty to vote as he chufed. Depones, No doubt, Provost Houfton was more capable to do him a fervice than Clerk Greig; but he never did do him a fervice. Depones, The firft time he faw Colonel Munro was
 C at Fortrofe the day before the election.

Interrogated, If Clerk Greig told the deponent, that Captain Ray and he, or either of them, had a correpondence with Colonel Munro, or any of his friends? or that they were to get something
 D done for the good of the town, or for individuals in the council, upon that occafion? depones, He never did. Depones, The night before the election, he fleep at Mrs Mathiefon's, and he had no bed-fellow. Depones, That there were other beds in the room; he
 E is fure of two others; but does not know if there was any more: That he does not remember who fleep in the others, only thinks, but is not pofitive, that James Anderfon, late counfellor at Fortrofe, did. Depones, That there were in the beds fome ftranger gentlemen
 F whom he did not know. Depones, That he does not know that it was refolved they fhould all fleep there that night; but remembers, he himfelf was ordered to go to bed; and that feverals in the company whom he did not know ordered him to bed. Depones, He
 G does not remember that he propofed to go home to fleep with his wife that night. Depones, That he never fleep at any other time in Mrs Mathiefon's. Depones, He heard no reason given for their continuing there that night, but to keep the council found. De-
 H pones, No perfon ever applied to him for his intereft at laft Michaelmas election but Mr Greig, only that Mr Greig and Mr Ray both fpoke to him the day before the election on that fubject.

Interrogated, If he remembers, that, at any time between the
 I lection at Michaelmas 1765 and the laft election, he did apply to Provost Houfton, to get him fome money from Sir Alexander Grant? and to repeat upon his oath what paffed at that occafion; depones, That as he had fuffered in lofs of time and bufinefs, by
 K having been with the council in the caftle at Michaelmas 1765, in fupporting the complainer's intereft, he defired Clerk Greig to fpeak to Provost Houfton for fome money for him from the complainer; to which Clerk Greig gave him no answer: That fome
 time

time after he met Provost Houstoun by accident; on which occasion, to the best of his remembrance, he told him he wanted money for the loss of his time; to which Provost Houstoun answered, that money could not be given, but that a post could be better got; upon which the deponent replied, he was not fit for a post; B and finding no money was to be got, he said no more. Depones, That the sum he mentioned at this time, was, as he thinks, L. 10; but he added, that less would do him service. Depones, That the reason for going into the castle at Michaelmas 1765, was in order C to keep out the Mackenzies.

Interrogate, and desired to condescend upon the gentlemen of the name of *Mackenzie*, from whom they apprehended danger, which induced them to go into the castle, depones, That he does D not remember any particular man; but that it was the name of *Mackenzie* in general. Depones, That at Michaelmas 1765, there was one or two country-counsellors, but does not remember which, put off the council; believes, there was not any country-counsellor E left, so far as he remembers. Depones, He did not, until Michaelmas election-day 1765, hear of any resolution to keep off country-counsellors. Depones, That he was in the castle, and slept there more than a week; but how many days, does not remember. Depones, F That at this time he was not much in the castle all day, though he slept there at night. Depones, That the evening of last Michaelmas election, he went home with Alexander Falconer, a preceding witness, and one of the respondents, to his Falconer's G mother's house.

Interrogated, Whether Falconer was then touched with liquor? depones, No doubt, on such a day, they both were touched with liquor. Depones, He does not remember any conversation be- H twixt him and Mrs Falconer on the subject of the election, by reason that people in liquor do not easily remember things. Depones, That the day before the election, Clerk Greig desired the deponent to go home and shift himself, and to be ready that morning by I eight o'clock: That the deponent was at that time in want of a waistcoat, and having gone to buy one from a tailor, he missed it, as the tailor had disposed of it to another; upon which occasion, having told Alexander Falconer of this, and sought a waistcoat K from him, Falconer had not one that could fit him, and told, he would speak to Mr Greig for one; and accordingly Greig gave him one, which he has now upon him.

H

Interrogated,

A Interrogated, Whether Mr Greig, or any other person, offered, gave, or promised to the deponent, any sum or sums of money, place, employment, or other reward, to induce the deponent to join in the measures that were then to be taken, to make or bring

B about the proposed alterations in the council? Objected to this question, by the respondent's counsel, since it is directly calculated to infer guilt against the witness himself; and therefore, as he is one of the respondents, the question is improper, and he cannot be

C compelled to answer it. Refuses to answer the question.

Interrogated, If Mr Greig, or any other person, took an oath or solemn promise from the deponent to conceal, and not to reveal, at any time, what passed between them, in relation to his the deponent's conduct in the last election? depones *negative*.

Interrogated, Whether Greig or Ray told him the means by which he expected to prevail upon the other counsellors to new-model the council? depones, They did not.

E Interrogated, Whether he was made to expect, by any hint or insinuation of any kind, by any of the new counsellors, or any for them, that he was to get a reward of any kind for what he was to do at last Michaelmas election? The respondent objects to the question as

F improper, for the reason above mentioned. Refuses to answer.

Interrogated, If he knows, or believes, that any money, place, or employment, was offered, promised, or given to any of the old counsellors, or any of the dismissed counsellors, himself excepted, to influence their conduct at the last Michaelmas election? depones, That he heard of none from their own mouths, and saw none.

Interrogated, If he heard it from the mouths of any other persons? depones *negative*. Depones, That he does not believe that H they were bribed, or that money was given to any of them.

Interrogated, If he knows, or believes in his conscience, that such favours were offered, given, or promised, to the wives, children, parents, or other near relations of any of the counsellors, I himself excepted? depones, He believes none, and heard of none.

Interrogated, If he knows, or believes, that any money was lodged, or security given, for the above ends? depones, He believes none, and heard of none.

K Interrogated, That as the deponent has already said, that he got a waistcoat from Mr Greig, if he, on that day he got it, the day following, or at any other time thereafter, searched the pockets or seams

feams of this waistcoat, and if he found any money, gold, or bank- A notes, or any memorandum or jottings? depones *negative*.

Interrogate for the respondents, Whether he was present at any meeting of the council where it was proposed, that any of them should go to wait of the complainer at Dalvey last harvest? de- B pones, He was not. Depones, That he heard before last Michaelmas Andrew Bremner say, that he intended going abroad, and leave the country; and that he had reason to believe so, as he had given up his farm; but does not now remember at what time he C gave up his farm, though he knows it was before last Michaelmas. Depones, That he knows, that since he came on the council, that such of the friends of the family of Fortrose as had been on the council were turned off. Depones, That he thinks he lost fourteen D days good in the way of his business, during the time he was in the castle about March 1765. On the part of the complainer, depones, That in the way of his weaving-business, he would at least earn a shilling *per* day, some days eighteen pence, twenty pence, or E two shillings. Depones, That he knows that Mr Mackenzie late of Fairburn was one of the counsellors of Fortrose, and that before the deponent became one of them. Depones, That he does not remember to have heard Provost Houstoun propose to bring in Mr F Stewart Mackenzie Lord Privy Seal into the council on the day of the last election at Fortrose. Depones, That he does not know that the complainer had any hand in turning off any of the friends of the family of Fortrose from the council. G

Interrogated for the respondents, Whether or not Provost Houstoun was in use to consult annually with the deponent since he came upon the council, about the alterations that were to be made at the Michaelmas election, that is, before the counsellors met for H making that election? depones, That he was not in use to be called to any meeting of counsellors, in order to concert who were to be put off, or who taken on the council, previous to the day of election, when the same was moved in council. *Causa scientiæ patet*. I

Inverness, 8th May 1767.

Mr William Smith schoolmaster in, and one of the counsellors of Fortrose, a married man, aged 46 years and upwards; who K being solemnly sworn, purged of malice, *ut antea*, and interrogate on purgation, depones, That he has no ill-will or malice against the

A the complainers, further than that it could not be reasonably supposed, that he wished him success in this cause.

Interrogate, If any other of the respondents in this cause, or any other person, informed the deponent, by word or writ, of the import of what all or any of the witnesses hitherto examined, have said in this cause? and if they did, to set forth the particulars in this oath; depones, That he neither employed any person to give him such information, nor, to his knowledge, did any person come on purpose to give him such information, or communicated to him, either by word or writ, other than what he was yesterday asked, Whether, in a conversation with Mr Wood, he the deponent had said, that he expected favours; and that it was Andrew Bremner, D a former deponent, that had desired him to recollect himself upon that subject.

And being interrogate *in causa*, depones, That he has been master of the grammar-school of Fortrose for fourteen years, or about E it. Depones, he has been a counsellor in Fortrose since Michaelmas 1760: That he was brought upon the council by means of his neighbours in general, and by means of their bailie, now Provost Houstoun, in particular.

F Interrogated, depones, That he was with his wife upon a visit at the house of Mr Ross of Kindeace, her uncle, about the 16th, 18th, or 20th of September last.

Interrogated, If the deponent went from Kindeace's house to G Mr Ross of Inverchally's house? who accompanied him? what company did he find there, or came there during his stay at last house? depones, That having been asked by Mr Ross of Inverchally, above ten months before that period, to see him at his house, he took that H opportunity, and asked Mr Ross of Kindeace to go with him, which he did, where they found Colonel Munro, Mr Mackay of Skibo, Sir John Gordon of Embo, and some others. Depones, That he was married to his present spouse the 14th of June last; I and that the above was his first visit at Kindeace since he was married.

Interrogated, If he paid the above visit to Kindeace of his own accord? or was he invited by Kindeace to come to his house? depones, K That Kindeace having been present at his the deponent's marriage, had asked him to see him at his own house, as soon as he could, which he the deponent could not overtake before the time above mentioned, when there was a vacation in his school.

Interrogated,

Interrogated, If any person proposed to him, when either at A Kindeace or Inverchafly's house, to desert the interest of Sir Alexander Grant, and give his interest to Colonel Munro; in order, that the Colonel, and some of his friends, might be brought on the council of Fortrose, at the then ensuing Michaelmas election? de- B pones, That when at Kindeace he had some conversation with him upon the subject of espousing a different interest from Sir Alexander Grant's; and had taken his final resolution before he went to Inverchafly's house; and had some conversation with Mr Ross of In- C verchafly upon the same subject, when at his house; and that the interest above referred to was Colonel Munro's.

Interrogated, If either Mr Greig or Ray, or both, at any time previous to last Michaelmas election, told him, that they were in D a correspondence with Colonel Munro, or any of his friends, for the purpose of bringing the Colonel, or any of his friends, into the council? depones, That both did, about nine days prior to the election; and that this happened after his return from Kin- E deace.

Interrogated, If either Greig or Ray, on the above occasion, told him, that they, or either of them, agreed to support Colonel Munro's interest? and if they, or either of them, made any terms with F the Colonel, or any of his friends, or agents, for the community, themselves, or any other member or members of the council? depones, That they both, at the time last mentioned, told him they were resolved to support Colonel Munro's interest; but that neither G then, or at any other period, did they tell him, that they had made any terms with the Colonel, or any of his friends, or agents, for the community of Fortrose, or any of the members of the council thereof. H

Interrogated, If he told Greig and Ray, at the above period, that he himself was come under engagements to Colonel Munro? depones, That, so far as his memory serves him, he did, at the time last mentioned, signify to both these gentlemen, he had agreed to I support Colonel Munro's interest.

Interrogated, If he, and Greig, and Ray, at that time, came under any promise or engagement, by oath, or otherwise, not to disclose or reveal the engagements they came under to, or what passed K with Colonel Munro, or any of his friends, when they severally engaged to support Colonel Munro's interest? — The respondents counsel objects to this question as improper, leaving to the witness to make I what

- A what answer he chuses. — Depones, That he knows not whether Mr Greig or Mr Ray came under such engagements as the question implies, by oath, or otherwise; but that when the design of forming an opposition to the complainer, in favour of Colonel Munro, was first communicated to him the deponent, he was desired to swear, and accordingly did swear, that he would not disclose such intended opposition until the eve of the election; and that this oath was desired of him by Mr Ross of Kindeace.
- C Interrogated, If ever he complained to any person or persons that Sir Alexander Grant did not mind his friends of the council; and that that person or persons ought to spur the complainer for that purpose previous to the last Michaelmas election? and did he not on that occasion say, that if something was not done by the complainer, then or before the ensuing election, for individuals of the council, that the complainer would afterwards forget them? And did he apply to any person or persons to speak to the complainer on his own behalf, saying, at the same time, that supporting the complainer's interest had not only lost him a great deal of time, but had been very expensive to him? depones, That he cannot charge his memory with every conversation he may have had upon subjects of this nature; but thinks Provost Houston was the man with whom he ever talked most freely upon this subject. Does not remember, that, previous to the middle of September last, he ever complained of the complainer's neglect; but that he thinks some time in July or August last, the Provost and he had a conversation, in which they mutually regretted that the borough of Fortrose was like to be of so little consequence to the complainer, by reason of his being secure of the other three boroughs believing which to be the case, the deponent probably said to Mr Houston the provost, that the complainer's being secured in some of these boroughs, behoved to be the stand the borough of Fortrose had made in the 1765; and that he the deponent had desired Provost Houston to set this in a proper light to the complainer; but does not remember that he desired the Provost, or any person, to apply to the complainer in his the deponent's particular behalf.

Interrogated, If Mr Ross of Kindeace told him, that Greig or Ray or both, had come under engagements to Colonel Munro, or any of his friends, to support the Colonel's interest? depones, He does not remember.

Interrogated, If he, since his coming on the council of Fortrose, has been in strict friendship with the complainer, and in a correspondence

by letters with him, until a few days or weeks before he came under A engagements for Colonel Munro? depones *affirmative*.

Interrogated, If any letter or letters wrote by him to the complainer, previous to his aforesaid engagement, insinuated to the complainer, that individuals in the council of Fortrose expected to be rewarded by B him according to the rank they bore in the council? depones, That in a long and frequent correspondence he cannot charge his memory with particulars, as he kept no copy of any letters wrote by him to the complainer previous to the 29th of September last: nor does he C now recollect the particulars contained in the question.

Interrogated, If in any or all of the above letters wrote by him to the complainers, he signified his own firm attachment to the complainer's interest, whatever others of the council might do? D depones, That he does not doubt but he so might have signified, and sincerely and firmly resolved, until he was satisfied that the complainer had misled him. And being desired to explain himself as to the above expression of misleading, depones, That the complain- E er had in his more private letters, as well as in his ostensible letters, averred to the deponent, that he the complainer had the other three boroughs of the district indissolubly engaged to him, when, in fact, the deponent, before dropping the complain- F er's interest, and adopting another, was satisfied that the complain- er had no such hold of the borough of Nairn.

Interrogated, How he came to be informed, and by whom, that the complainer had no hold of the borough of Nairn? depones, G That he thinks it is now unquestionable, that the complainer had no such hold of the borough of Nairn, and that he was satisfied of the truth of this, from such authority as he saw no reason to question; and that he the deponent was the more inclined to believe H this, from his writing to the complainer about the beginning of September last, acquainting him, that he had heard it averred, and said to be from good authority, that the complainer had no such hold of the borough of Nairn; and, at the same time, telling I him, that if it was otherwise, it might be proper for him to put his friends in condition to say so; to which letter the complainer never had any answer by word or writ, though there were opportunities of both. Here the witness desired from the commissioner to know, K Whether he was obliged to condescend upon the particular persons? or, Whether it was sufficient that he was satisfied in his own mind with the authority he had? The commissioner gave him his opinion,

A nion, that he ought to answer the interrogatory, though he could not compel him. On which the witness observed, that it was hard in political matters to be obliged to spread the ferment wider, by condescending on particular names; and therefore declines to con-
 B descend on any particular names.

Interrogated, If he was told, at any time previous to last Michaelmas election, or if he understood from the above authorities, who the person was that was to have the interest of the town of
 C Nairn? depones, That he does not remember, that previous to the time mentioned, any person told him who was to have the interest of that borough.

Interrogated, What he means by the expression above deponed
 D on, of putting his friends in a condition to say so? depones, That he meant, that the complainer should enable the deponent, or others whom the deponent then thought in his the complainer's interest, fully to contradict the assertion, that he had no such hold of the
 E town of Nairn as he had given out.

Interrogated, If in any of the letters wrote by him to the complainer, signifying his attachment to the complainer's interest, he did, in place of putting his name to the letter, sign True Blue? depones,
 F That he does not remember; but if he did so, it must have been several years ago.

Interrogated, What were his reasons for exposing Sir Alexander Grant's correspondence with him, which now appeared printed, until
 G he was called upon oath to do so? depones, That the two letters referred to in the question were by the complainer himself declared ostensible, and had accordingly been shewn to severals long before the deponent dreamed of any revolution in Fortrose; and as they contained
 H one material part on which the deponent's disgust turned, he thought himself at liberty to give them up when called for by his counsel at making the defences.

Interrogated, If he was at any time in use, when in a friendly correspondence with any of his acquaintances, to put True Blue in place of his name to any letter wrote by him? depones, He does not remember.

Interrogated, If he wrote on the 29th of September last to Provost
 K Houstoun? and if the letter now shewn him, of the above date, and directed to the Provost, is holograph, and signed by the deponent? depones, That he did write Provost Houstoun of that date; and that the letter now shewn him is the very letter wrote by him to Provost
 Houstoun,

Houstoun, as above ; and which letter is, of this date, marked by the A
 commissioner and deponent as relative to this oath.

Interrogated, If, at any time previous to last Michaelmas election, he
 knew or was told, that Captain Ray had applied to Provost Houstoun
 to desert the complainer's interest, and take up with another gentleman, B
 in order to bring that gentleman into parliament for the district of
 Fortrose ? depones, That he was told something of that nature, but
 the particulars he scarcely remembers ; nor does he remember exact-
 ly whether it was before or after the elections. The witness is desired C
 to say what he does remember upon that subject. — The respondents
 counsel objects to this question, as foreign to the point in issue, unless
 the complainer will shew what connection the other gentleman men-
 tioned in the question has with the present complaint. — Depones, That D
 all he remembers is, that Captain Ray told him, that some such thing
 had been in agitation betwixt the Provost and him ; and that the Pro-
 vost had stood greatly in his own light, or words to that purpose.

Interrogated, If Mr Ray, on the above occasion, made any mention E
 of Mr Oswald of Dunikeir's name ? — The respondents counsel here,
 as on former occasions, objects to this question, as Mr Oswald, neither
 from the complainer's condescendence or otherwise, has, or possibly
 can have the most distant connection with this cause. — Depones, That F
 as that gentleman's name was not mentioned in the original question
 on this subject, he the witness did not think it necessary to mention it
 in his answer ; but now says, that Captain Ray mentioned the name of
 Mr Oswald of Dunikeir. G

Interrogated, If Mr Ray told him his reasons why the Provost had
 stood greatly in his own light, on the occasion of Mr Ray's speaking
 to the Provost ? depones, He does not remember.

Interrogated, If he was present at any meeting with Provost H
 Houstoun, and any number of the counsellors of Fortrose, when
 it was proposed that the Provost should go to Dalvey, and wait of
 the complainer, in order that both of them should come together to
 the last Michaelmas election ? and how many days was this before I
 the Michaelmas election ? depones, That from the time he came
 to a final resolution of adopting a different interest from that in
 which he believed the Provost engaged, he had avoided as much
 as possible all confidential conversation with the Provost upon poli- K
 tical subjects ; and knows of no concert or proposal among the
 counsellors for the Provost's going to Dalvey, as in the question.

Interrogated, If he knows that the Provost went to Dalvey two

K

of

A or three days before the Michaelmas election? if he breakfasted with him the day he went? who more breakfasted with him? and if he and the company convoyed the Provost to the ferry in his way to Dalvey? depones, That having seen the Provost the day before, and having heard him say, he was to go to Dalvey the next day, being Saturday, he the deponent, from the same social regard which he always bore, and wishes to bear to Provost Houstoun, went on the Saturday's morning, in order to meet him, and take a dram with him, at William Watson the ferrier's house: That Mr Greig went with the deponent from Chanry, and having staid some time at William Watson's, and the Provost not casting up, Mr Greig and the deponent went to Rosemarkny, where they breakfasted, with the Provost, and his brother Bailie George Houstoun, where they were joined by Captain Ray; from whence they returned to William Watson's, and after drinking a dram, convoyed the Provost and his brother to the ferry-boat.

E Interrogated, If he was at Dalvey any time in the month of September last? depones, That he does not think he was.

Interrogated, If Colonel Munro, and the other gentlemen who were brought into the council of Fortrose alongst with him, came to Fortrose upon Monday the 29th of September last? and if they took up their lodging at Mrs Mathieson's for that day? and if they and a good number of the council of Fortrose did remain there all the Monday night? depones *affirmative*; only that some of the council might go out now and then.

Interrogate, If Colonel Munro and his company, and particularly the counsellors, went to bed that night in Mrs Mathieson's? and if he knows that the counsellors had bed-fellows? and who was his own bed-fellow, if he had any? depones, That he does not remember to have seen any of the company go to bed; but believes, that they slept the night mentioned at Mrs Mathieson's: That he himself slept there, and Mr Greig was his bed-fellow.

I Interrogated, What reasons were assigned for the counsellors sleeping there that night, when their own houses were so near them? and if it was proposed, and by whom, that they should remain there all night? depones, That he does not remember to have heard any general reason assigned for their keeping together that night; but that, for his own share, he did not chuse to fall in with the complainer or any of his friends, lest any altercation might have happened from ill humour; and does not remember by whom it was proposed that they should thus keep together.

Interrogated,

Interrogated, As he has deponed that he did not remember to A
have heard any general reason given, if he knows of any particular
reason given, and by whom? depones, That he does not remember
by whom; but if his memory does not misgive him, some of them
were afraid of being teased by the complainer's friends. B

Interrogate, Whether any letters have passed betwixt him and
any of the new counsellors, or any of the old or dismissed counsel-
lors, either before or since last Michaelmas, relative to last Michael-
mas election? — Objected to this question by the respondents C
counsel, in as far as it relates to letters since the last election.— De-
pones, That he does not remember to have received any letter from
the persons mentioned in the question previous to the last Michael-
mas election, that had any connection with the said election: That D
since said election he has had the honour to receive two angry let-
ters from the complainer, to both which he had replied; as also
two letters from Mr Ross of Kindeace, in answer to two of his the
deponent's to Mr Ross, acquainting him of the progress made in E
this complaint at Edinburgh, and one from Colonel Munro from
London, which is all he remembers to have received that had any
connection with the last election of Fortrose; and does not remem-
ber that he put pen to paper upon that subject before the election. F

Interrogate, If he has the letters which he has mentioned, to wit,
those from Kindeace and Colonel Munro? depones, That none of
them were material to this cause, and were destroyed some time be-
fore the deponent was cited in this cause. G

Interrogate, How many days or weeks, or other time, before his
citation, they were destroyed, to the best of his recollection? de-
pones, That he cannot recollect the precise time, the days, or weeks.

Interrogate, Whether they were destroyed accidentally or design- H
edly? depones, That they were burnt in course with other useless
papers; and that had the deponent apprehended any purpose that
their being preserved would have answered, he would not have de-
stroyed them, as he is convinced their being produced would hurt I
no person or cause. Desired to repeat the substance of Colonel
Munro's and Kindeace's letters so far as his memory can serve him.
Here the respondents counsel objected, and observed, that this
witness, Kindeace and Colonel Munro, are respondents to this com- K
plaint. The witness has already said, that the two letters from
Kindeace related to the progress made in this complaint. The let-
ter from Colonel Munro has probably been on the same subject.
To compel respondents to reveal and publish such measures as have
been

A been concerted for their mutual defence, is new and unprecedented. In such circumstances they are precisely in the same light with agents; and it has never yet been determined, that agents could be compelled to reveal their clients secrets. Besides, there is the less
 B reason for indulging the complainer in this extraordinary demand, that this respondent has already gone further than he could by law be compelled to do, since he has deponed, 1st, That none of these letters were material to this cause; and, 2^{dly}, That their being
 C produced could have hurt no person or cause. For these reasons, it is hoped that the commissioner will sustain the objection, since the question is of so delicate a nature.

The commissioner allows the interrogatory to be put, and the
 D witness to answer it or not as he sees proper.

On which the interrogatory being put, depones, That he thinks he has virtually satisfied the question already; and therefore, tho' he might with the utmost safety to himself, as well as to Colonel
 E Munro and Mr Ross of Kindeace, repeat every word of the letters in question, did his memory serve him so far, yet he declines it as improper.

Interrogated, Whether he knows that any other person than Mr
 F Oswald of Dunnikier was talked of among any of the counsellors to be brought into parliament for the Fortrose boroughs, at any time before last Michaelmas election, and since Michaelmas 1763? Objected to this question by the respondents counsel, as calculated
 G to expose the names of persons who have no sort of connection with this cause. Unless therefore the complainer will shew some sort of connection between the other person hinted at in the question and this complaint, it is submitted to the commissioner if it ought
 H to be allowed to be put. The commissioner allows the interrogatory to be put, and is of opinion the witness should answer it. And the question being put, depones, That he does not remember any person seriously talked of among the counsellors of Fortrose to
 I be brought into parliament for that district of boroughs since the time mentioned.

Interrogate, Whether he himself, or any of the other counsellors, proposed to Mr Johnstone, now Pulteney, or any of his
 K friends or agents, to give him their interest in the borough of Fortrose. — Objected to this question by the respondents counsel, for the reasons above mentioned, and as it is quite foreign to this cause; besides that the witness has just now deponed, that he never

ver heard of any talked of seriously for these boroughs; consequently the question is already answered. And the question being put by the commissioner, depones, That he thinks this question already answered in effect; and now says, that he himself never made any such proposal as that mentioned in the question; nor B did any other counsellor of Fortrose, to his knowledge.

Interrogate, Whether a proposal was made to any of the counsellors by Mr Johnstone, or any in his name, for the above effect? depones *negative*, so far as the deponent knows. C

Interrogate, If he had resolved to abandon Sir Alexander Grant's interest, and to adopt that of Colonel Munro, till he had the interview above mentioned with Mr Ross of Kindeace, at his house? depones, That it was at the house of Mr Ross of Kindeace that he D came to a final and fixed resolution of dropping the complainer's interest, and espousing that of Colonel Munro.

Interrogate, As he has already said, that he was firmly resolved to support Sir Alexander Grant's interest, till he understood that E Sir Alexander had misled him, by saying, that he was secure of the town of Nairn, and as the town of Fortrose became the more necessary, on this discovery, to support the complainer's interest; what argument did Mr Ross of Kindeace use with the deponent F to induce him to desert a gentleman's interest whom he had, till that interview, firmly resolved to support? depones, That the single consideration of being misled was sufficient to determine the deponent to drop the complainer's interest, without any addi- G tional argument; but that it appeared, to the conviction of the deponent, that the complainer, Provost Houston of Fortrose, and Mr Baillie of Rosshall, had concerted a plan, without the deponent's participation, in order to keep the interest of the borough H of Fortrose, without its appearing that the complainer was under any obligation therefor to the community or individuals, Provost Houston alone excepted, who had a title, and Mr Baillie, who had none known to the deponent; which he the deponent was the I more inclined to believe to be the fact, as he was credibly informed soon thereafter, that Mr Baillie, on his return from Dalvey, early in September last, or in the end of August, had delivered a letter from the complainer to Provost Houston; in which he tells K him, that he had settled every thing concerning him the Provost, with their good friend Mr Baillie, to whom he referred him; and the deponent was strongly impressed with the belief, that the operation
L

A ration then a-forming would succeed; in which event, did he oppose them, he saw his very bread at their mercy, without any probability of being provided for by those who had, for some years, held up to his view flattering and delusory prospects, in so far as, B in the year 1752 or 1753, when he the deponent came to be master of the grammar-school of Fortrose, his act of settlement is subscribed only by seven of the then magistrates and counsellors, which, being then a stranger to the nature and constitution of C boroughs, he thought a sufficient security; but, in the 1759 or 1760, he discovered, that no deed of fewer than eight, being a majority of fifteen, could be binding on the community or council. This defect he has several times, since that period, requested the present D Provost Houstoun, whom he looked upon as his friend, to get supplied; but, for what reasons the deponent knows not with certainty, it has been as yet delayed. The witness being put in mind, by the complainer's doer, that he has not answered the question; E which was, "What arguments Kindeace used with him to alter " his firm resolution to support the complainer's interest?" he is now desired to answer it. Depones, That the second reason condescended upon in the answer to the last question, was the chief, F and, for ought the deponent remembers, the only argument used with him by Kindeace.

Interrogate, If he knows that it was a measure concerted by the magistrates and counsellors of Fortrose, of late years, to keep out country-counsellors? and if the deponent was not a great promoter of this measure? G and for what reason? depones, That he does not remember that any measure was concerted for keeping off all country-counsellors without exception; but remembers, that in September 1765, or thereabouts, there H was a verbal concert to oppose any motion that might be made for admitting on the council, together, such a junto of country-gentlemen, closely connected together by the ties of blood, name, interest, and vicinity, as might be an overmatch for the rest of the council; at least in this I light he the deponent considered the then verbal concert.

Interrogate, Whether he remembers that several of the other counsellors of Fortrose, and the deponent, did, at Michaelmas 1765, retire, for some nights preceding that Michaelmas election, to the K castle of Fortrose? and what was the cause of this measure? depones, That being, some time about the middle of September 1765, at the house of Mr Grant of Grangegreen, he received a letter from Captain Ray, desiring him to repair to Fortrose; for that he and some others

others meant to inclose ; which they accordingly did in the castle ; and A
with them the deponent. What the motives of others were, he the
deponent cannot swear to ; but that, for his own share, he considered ;
himself as then in the complainer's interest, and chose to keep out of
the way of being tampered with. B

Interrogate, From whom he meant to avoid being tampered with ?
and from whom he and the other counsellors apprehended danger,
when they retired to the castle ? — The respondents counsel ob-
jects to this question as insidious, since the witness has not said, either C
that he himself, or any other of the counsellors, apprehended danger
when they went to the castle ; though this fact is taken for granted
in the question, without a shadow of authority. — Depones, That
as he has already, he humbly apprehends, answered the substantial D
part of this question, he declines condescending upon names, for the
reasons already advanced upon a former question. And the interroga-
tory having been put in the witness's hand again, the commissioner cer-
tifies, that the witness returned the same again to the clerk, declining E
making any more particular answer.

Interrogated, If he knows, believes in his conscience, or has heard,
that all and each, or some one or other of the counsellors of For-
trose, who brought about the alterations at the last election in the F
council, the deponent himself excepted, were offered, promised, or
did receive, any sum or sums of money, or other gratuity or reward,
to influence their conduct at the last election ? — The respondents
counsel objects to this question, in as far as it relates to belief and hear- G
say. — Depones *negative*, so far as he knows, or has any good reason
to believe. As to matters of mere conjecture, opinion, or hearsay, he
declines to give an answer. And being desired to explain what he
understands or means by the words “ good reason to believe ? ” de- H
pones, That thereby he means the relation of the persons themselves,
or such other authority as would satisfy him in any other serious or im-
portant affair. And being again desired to say, Whether he believes
it in his conscience, that the alterations complained of in the council I
of Fortrose were brought about by bribery and corruption ? — The
respondents counsel objects to this question, as already fully an-
swered ; and therefore unnecessary. — And the question being now
put, depones, That as he is not capable of discovering the difference K
betwixt believing in his conscience, and having good reason to be-
lieve, he thinks the question sufficiently satisfied already ; and has
nothing

A nothing further to say; that is, that he declines making any further answer to the above question as put.

Interrogate, If he knows, believes in his conscience, or has heard, that any sum or sums of money were offered, given, or promised, B to the wives, children, parents, or other near relations of the said counsellors, to influence their conduct in the said election? Here the respondents counsel, once for all, objects to this, and every other question which may be put to this witness, in as far as they C relate to belief or hearsay. Depones *negative* as to knowledge or belief; and declines answering upon hearsay, as vague and uncertain.

Interrogated, If Colonel Munro, Mr Ross of Kindeace, or any other of the new counsellors, offered, gave, or promised, directly or D indirectly, to the deponent, any sum or sums of money, or other gratuity or reward, to induce him to desert the interest of Sir Alexander Grant, and to espouse that of Colonel Munro? The respondents counsel objects to this question as improper, since it is E directly calculated to infer guilt against the witness himself. Depones, That however safely he might answer this question, yet being stated here in the capacity of an evidence, and a party, though F he reckons it his duty to do all the justice incumbent upon him to truth in the first capacity, yet being in the last capacity charged with the foul crimes of corrupting and being corrupted, he is satisfied, that it is incumbent upon the complainer to lead a proof of G these crimes, independent of him the deponent, and that therefore he the deponent is not compellable in law or equity to answer the question, as having a manifest tendency to infer turpitude against himself.

H Interrogated, If he is safe to answer the question in the negative upon his great oath? The respondents counsel objected to this question as irregular and incompetent, since, after the answer just now given, the complainer has no title to put this question. And I the question being again put, depones, That for the reasons already mentioned, he declines answering this question.

Interrogated, If he knows, or believes in his conscience, that any sum or sums of money, or other gratuity or reward, were given or K promised to the deponent's wife, or any other of his near relations, for the deponent's use and behoof, to influence his conduct at the election complained of? The respondents counsel objects to this question, 1st, as calculated to infer turpitude against this witness's wife,

wife, who is in law held to be *eadem persona* with himself; and, in A the *next* place, as indirectly tending to load the witness himself with guilt. Depones, That as a husband and wife are one, the reasons assigned in answering the last question but one, must operate here; and therefore declines answering. B

Interrogated, If he knows, has been told, or believes, that any sum or sums of money, meal, or grain, were offered, promised, or agreed to be given to the community of Fortrose, in order to influence the conduct of the said counsellors at the last election? The C respondents counsel objects to this question as improper, in as far as the witness himself is concerned. Depones *negative*.

Interrogated, If he knows, or has reason to believe, that a credit was given, lodged, or promised, to all or any of the said counsellors D who brought about the alteration complained of, the deponent himself excepted, to relieve or indemnify them, or any of them, of any demands which might be made upon them, in respect of the part which they had taken in the said election? depones, That he E knows of no such credit lodged, nor has good reason to believe such credit lodged, for the behoof of any person or persons contained in the question, Captain Ray alone excepted, who some time ago told the deponent, that apprehending a demand might F be made upon him by Provost Houstoun for money due by the Captain to the Provost, he the Captain had powers, or liberty, to draw upon Mr Henry Davidson of London, for his relief of that debt due to the Provost. Depones, That he does not remember G to have heard Provost Houstoun, or any other person, propose to bring Mr Stewart Mackenzie of Rosehaugh, Lord Privy Seal, upon the council of Fortrose at last election.

Interrogate, If he had any conversation with Mr Ross of Kin- H deace upon the subject of the alterations proposed to be made in the council of Fortrose, previous to the interview which he has already said he had with Kindeace, between the 16th and 20th of September last? when, and where, did this previous conversation I happen? and what passed on that occasion? depones, That towards, or about, the middle of September last, Mr Ross of Kindeace came to Fortrose, of an afternoon, to see his sister, her husband, and his niece, the deponent's wife; as his Kindeace's sister had, some days before, got notice of the death of a son in the East Indies; and K that that night Kindeace and the deponent had some conversation upon the subject of the politics of Fortrose; a principal part, if not the whole of which, turned upon the subject of the second reason for dropping the complainer's interest, adduced by the deponent in answer to a former query; at which time Kindeace first mentioned

A Colonel Munro to the deponent, which was also the first notice he the deponent had of any opposition formed, or a forming, against the complainer.

Interrogate, If Kindeace, at this time, or at the time he was at B Kindeace's house, as above deponed upon, told him, that if the Colonel could obtain the interest of the town of Fortrose, that he was sure, or had reason to believe, that he would get the interest of another borough of that district? The respondents counsel, once for all, C objects to this, and every other question relative to the interest of the other boroughs of this district, as foreign to the point in issue; and therefore incompetent. Depones *negative* to the best of his remembrance.

D Interrogate for the respondents, As a question has been put to him by the complainer, Whether he knew, or had reason to believe, that a credit was given, lodged, or promised, for the behoof of such counsellors as were active in bringing about the alteration E in the council of Fortrose last Michaelmas? and as he has, in answer thereto, deponed, that Captain Ray told him, that he had powers or liberty to draw upon Mr Harry Davidson of London, for his relief of a debt due by him to Provost Houstoun: he is now F desired to say, Whether Captain Ray told him, that he had obtained the above powers or liberty to draw on Mr Davidson, for relief of his debt to Provost Houstoun, in order to influence his vote at the election complained of? depones *negative*.

G Interrogate, What he means by the exception with regard to Captain Ray, contained in his answer to a former interrogatory put to him by the complainer? depones, That he did not mean that he either understood, or that Captain Ray told him, that the powers H or liberty to draw upon Mr Harry Davidson, were either intended to influence his voice at last election of Fortrose, or as a reward for the part the Captain had acted on that occasion; but as an instance of pure friendship betwixt Captain Ray and Mr Davidson, the latter of whom, as the deponent had often heard the Captain say, had frequently stood his friend, by advancing or becoming bound for considerable sums of money for Captain Ray's behoof. And further depones, That it was towards the end of last year, or beginning of this, or at least some considerable time after the election K was over, that Captain Ray told the deponent, that being apprehensive the Provost might make a demand upon him for money due him, he the Captain had a credit with his friend Mr Henry Davidson, for enabling him to answer that demand, if pressed.

Interrogated,

Interrogated, If he knows that Mr Baillie of Rosshall, as far back A
as the year 1761, settled with the complainer about the political con-
cerns of Fortrose? if he does, he is desired to say, what he knows
of this matter; depones, That some time in the beginning of sum-
mer 1761, Mr Baillie of Rosshall, some short time after his return B
from Dalvey, acquainted the deponent, and some others, then of
the council, that he Mr Baillie had settled with the complainer,
that the complainer was to give L. 30 Sterling to the community
of Fortrose for that year; but did not say, when asked, that this C
sum was settled for any limited number of years.

Interrogated, depones, That some how or other Mr Baillie assu-
med an influence in Fortrose; to which the deponent has thought
for some years back, that Mr Baillie had no just title, excepting D
with the Provost, that is, with Provost Houstoun, with whom Mr
Baillie appears to the deponent to have been upon good terms e-
ver since they became intimately acquainted.

Interrogated, depones, That for some years back, he the depo- E
nent does not think that Mr Baillie has cultivated the friendship
of any of the leading people in the council of Fortrose, excepting
Provost Houstoun and Mr Jonathan Forbes.

Interrogated, depones, That, so far as his memory serves him, F
some days before the Michaelmas election 1761 or 1762, Mr Bail-
lie advised the laying aside from the council of Fortrose Mr Mac-
kenzie of Redcastle, Mr Mackenzie of Achilty, and Mr Mackenzie
of Brae. G

Interrogate, depones, That he does not remember that Mr Bail-
lie, in direct terms, advised to put an end to the influence of the fa-
mily of Fortrose in that borough, though he understood Mr Bail-
lie's meaning to be, that they should shake themselves loose of the H
gentlemen of the name of Mackenzie.

Interrogate, depones, That, so far as his memory serves him,
several circumstances, and persons, in the deponent's apprehension,
concurred to put an end to the influence of the family of For- I
trose, and the gentlemen of the name of Mackenzie, in the bo-
rough of Fortrose; such as, the death of Mackenzie of Fairburn,
who had a good deal to say with some of the leading members; the
advice of the complainer, from time to time, to the community, to K
secure their independency; the minority and absence of the new
Viscount Fortrose; and the direction of Mr Baillie of Rosshall in
1761, above deponed upon.

Interrogate, depones, That for himself, one reason for laying a-
side Mr Mackenzie of Dachmaluack, at the election 1765, was a
conversation,

A conversation, at which, so far as he remembers, Mr Lauchlan Grant, doer for the complainer, was present; the particulars of which conversation he does not now recollect: That for any thing he knows, the reason which determined some others to vote him off, was their persuasion that he was an improper person to be of the council; and he remembers, that Mr Baillie, in a letter to the deponent, advised the laying Dachmaluack aside, if he offered to mutter, or words to that purpose.

C Interrogated, If he ever received any other letters from Mr Baillie of Rosshall on the subject of the Fortrose politics? if he did, he is desired to say, if he still has such letters; and if he has, he is desired to produce them; depones, That he has received some such letters from Mr Baillie, which he, the deponent, preserved, because they contain some promises, or what the deponent constructed as promises, of favours which he, the deponent, might expect at the hands of the complainer and Mr Baillie; and though he is now possessed of these letters, not having been cited as a haver at the instance of the respondents, he refers it to the commissioner to determine whether he is obliged to produce them immediately, or not. The commissioner is of opinion, that the witness, if he now has in his custody the letters called for by the respondents counsel, he ought to exhibit them, unless he can show any good reason why they should not be exposed to the court. Whereupon the witness exhibits five missive letters from Mr Baillie to him, all marked up-

G on the back, of this date, by the deponent and commissioner, as relative to this oath.

Interrogate, If he knows that the complainer consulted and advised with Mr Baillie as to the management of the politics of Fortrose, the favours which he intended to bestow on individuals, and through what channel they were to be bestowed? depones, That the complainer, so far as he the deponent knows, did consult and advise with Mr Baillie in the matters of the borough of Fortrose; and that the complainer expressed his resolution of doing favours to individuals of that community through the mediation of Mr Baillie.

Interrogate, If ever the complainer either told or wrote to the deponent to the above purpose? depones, That, in March or April 1761, he heard the complainer say to the deponent, and others, That if the community or individuals were neglected, it would be owing to his good friend Mr Baillie; and thinks that the complainer wrote him, the deponent, to that purpose.

Interrogated, If he has this letter, or any other letters, from the complainer

complainer addressed to him on the subject of the Fortrose politics? A
 if he has, he is now desired to produce every letter which he has
 wrote by the complainer to him on this subject; depones, That,
 upon the 29th of September last, he, the deponent, wrote the com-
 plainer, *inter alia*, saying, That none of his, the complainer's, pri- B
 vate communications should militate or be produced against him,
 unless he, the complainer, should set him the deponent the prece-
 dent: That about the end of October, or beginning of November
 last, he the deponent received the first of the angry letters already C
 mentioned in his deposition, in which there are references to some
 letters said to be written by the deponent to the complainer in the
 course of their correspondence, which set the deponent to work to
 find out every letter from the complainer to the deponent, or any D
 scroll or copy of a letter from the deponent to the complainer;
 and in the course of this search he found several of the com-
 plainer's letters to him, but no copy of any letter from him
 the deponent to the complainer previous to the 29th Septem- E
 ber last; which he attributes to the hurry of his business, and the
 length of the letters which he believes he wrote to the complainer: That
 some time after the complaint was moved in before the court of session,
 he was wrote to by the agents employed for the respondents, as well F
 as applied by some of his neighbours at Fortrose, to give up the com-
 plainer's private correspondence; which he absolutely refused; and
 when he was again wrote to by some of the agents employed in the
 cause at Edinburgh, that letters were threatened to be produced, G
 and among them probably the deponent's to the complainer; at the
 same time insisting with him to transmit the complainer's private let-
 ters to Edinburgh, that they might be prepared; he the deponent
 transmitted about nine of the complainer's most material letters to him H
 the deponent, all sealed up in a cover, with the following words wrote
 on the cover by the deponent, " This cover not to be broke open, or
 " the contents looked into, unless Mr Smith's private letters to Sir
 " Alexander Grant are produced:" That when he understood the I
 proof was to be proceeded in at this place, he wrote once and again
 to Edinburgh, desiring the packet might be remitted him; which
 accordingly was done, to the best of his remembrance, after he was
 under citation to appear before the commissioner here, with the seal K
 entire, and, to the best of his knowledge, the cover unopened: That
 not knowing but some or all of his the deponent's letters to the com-
 plainer might have been here produced, he came up prepared for a
 production on his side of the complainer's letters to him, and of Mr
 Baillie's, whom he looked upon as the complainer's operator in the

A matters of Fortrose, and not his the deponent's friend, and therefore not bound to preserve the same delicacy as to his correspondence; but as the complainer and deponent have been in the practice of corresponding together with great and mutual confidence, and without reserve,
 B for a number of years back; and as in this correspondence many free things of men and measures have been written on both sides, he must esteem it a great hardship to be forced to expose and produce a confidential correspondence of a gentleman with whom he was upon such
 C friendly terms, and to whom he still wishes well, though he does not wish him success in this cause; and thinks he has been ill advised in the measures he pursued as to the borough of Fortrose; and therefore, if the commissioner should not force him to an immediate surren-
 D der of the letters now demanded, he will either wait the determination of the court of session at all hazards, or agree that the letters in question be transmitted to the said court under a cover, sealed by the commissioner and the deponent. The commissioner having considered
 E what is above said by the witness, is of opinion that the witness should comply with the exhibition now demanded by the counsel for the respondents. The deponent leaves it with the commissioner to determine whether he thinks proper to force the deponent to an immediate
 F surrendry or not of the letters in question; and if he should not think proper to have recourse to such force, the deponent leaves it with him the commissioner, with the counsel and agents on either or both sides, to take which part of the alternative proposed by the deponent, in that
 G event, he and they shall think proper. The commissioner here again repeats his former opinion to the witness.

Whereupon the deponent exhibited nineteen missive letters from Sir Alexander Grant to the deponent, holograph of the complain-
 H er, and which are all the letters he has of his, and are marked by the deponent and commissioner, of this date, as relative to his oath; and with them produces copies of the answers to the two last letters received by him from the complainer, likewise, of this date,
 I signed by the deponent and commissioner.

Interrogated, If he saw a letter wrote by Mr Baillie of Rosshall in the 1763, addressed to the complainer, and transmitted by him to Provost Houston, relative to the politics of Fortrose? if he did,
 K he is desired to repeat, as near as he can recollect, the contents of it; depones, That he remembers to have seen the letter referred to: That all he can recollect of the contents is, that Mr Baillie therein assured the complainer, that, whatever was said to the contrary, there was not a man in Fortrose but was his friend, or words to
 that

that purpose. Depones further, That the said letter gave indigna- A
tion or offence to Provost Houston, the deponent, and some others
of the council.

Interrogated, If ever Mr Jonathan Forbes complained to him of
the use which Mr Baillie made of him, in the sale of some of his Mr B
Baillie's lands to the complainer? if he did, he is desired to say
what passed on this occasion; depones, That Mr Forbes told the
deponent, that, in a communing with Mr Baillie upon the subject
of buying or selling lands about Fortrose, he Mr Forbes had said C
to Mr Baillie, that he Mr Forbes would not sell his own lands un-
der a certain high price, which the deponent does not now recol-
lect; and that Mr Forbes further told the deponent, that Mr Bail-
lie desired him to write him one or more letters to that purpose, D
which, so far as the deponent remembers, Mr Forbes told him,
that Mr Baillie had transmitted to the complainer, during the
course of their negotiation for the sale of Mr Baillie's lands to the
complainer; but does not remember the particular time when this E
conversation betwixt Mr Forbes and the deponent happened; nor
does he remember, that Mr Forbes complained of his being ill
used in this matter; and believes, that Mr Forbes repeated the same
conversation to Mr Greig. Depones, That he saw the manifesto, F
as it is termed in p. 7. of the respondent's printed answers, with
the letter to Provost Houston accompanying it, which manifesto, so
termed, he did not chuse to encourage, having by that time resolved
to espouse a different interest. G

Interrogated, and a paper referred to in the oath of Bailie George
Houston, being a representation of burghesses, inhabitants, and
council of Fortrose, depones, he knows very little of the subject-
matter of that paper, not being then of the council; but is satis- H
fied it was calculated to defeat the interest of the complainer,
and the deceased Mr Mackenzie of Fairburn, in the borough of
Fortrose; because the subscriptions, real or fictitious, were
procured by such as were there avowedly in the opposition to I
both. Depones, That in the month of August last, he went to
Dalvey, in consequence of a letter from the complainer to Provost
Houston; which, so far as he remembers, imported an invitation
to the Provost, and such of the complainer's and Provost's friends in K
general as he the Provost chose to pitch on, none being particu-
larized, so far as he remembers, but Andrew Bremner: That the de-
ponent having expressed the words, "of his own accord," meant,
that there was nothing in the letter above mentioned particular as

A to him. Depones, That he thinks the Provost carried too distantly in the matters of a political nature at Fortrose. Depones, That he never took any other oath relating to the last Michaelmas election at Fortrose than that already mentioned in his deposition; nor
 B does it consist with his knowledge, that any other of the then counsellors took any oath of secrecy whatever. Depones, That upon the day of the election complained of, or the day preceding, he did not see Colonel Munro take out a purse of gold, or any o-
 C ther coin or bank-notes, within the house of Mrs Mathieson; nor does he remember to have seen coin or bank-notes while he was in that house on either of these days. Depones, That upon the day of the election complained of, he saw Mr Greig the clerk receive
 D gold and silver for qualifying the members, and gold, as instrument-money upon the legality of the election; which last was given by Provost Houstoun; but does not remember the sum or sums. Depones, That he was one of those, as is already deposed
 E to, who took up his residence for some days or nights in the castle of Fortrose; where there were some arms, part of which were brought in by the members of council and others from the town, part from the King's ship the Florida, then lying in the road, and
 F part brought by the deponent from the house of Mr Grant of Grangegreen, the complainer's brother. Depones, That the account made to him by Bailie Bremner of his the Bailie's reception at Dalvey in last harvest, was much the same, so far as his memo-
 G ry serves him, with that contained in pages 5. and 6. of the printed answers to this complaint. Depones, That Andrew Bremner, late one of the counsellors of Fortrose, had, some considerable time before the election complained of, made no secret of
 H his resolution to leave the country. *Causa scientiæ patet.* All which is truth as he shall answer to God.

The commissioner judges it not improper to certify, that the haill of the foregoing deposition was dictated by the witness himself.

After the above examination was finished, Lauchlan Grant writer in Edinburgh, doer for the complainer, protests, That William Smith the preceding witness may be holden as confessed, for refusing, or re examined upon the questions which he has refused to answer; and thereupon took instruments in the clerk's hands to the commission, in presence of Hugh Munro and James Frazer, both writers in Inverness.

Excerpts from Sir Alexander Grant's proof, against the
counsellors of Fortrose, in April and May 1767.

Captain Farquhar Douglas.

I Nterrogate, if he knows, or believes in his conscience, that the A
last Michaelmas election of magistrates and counsellors was
brought about by money, promises of money, or of posts, offices,
or employments, made to all or any of the counsellors, by Colonel
Munro, or any of his friends or agents? depones, That he does B
not know that the last election of Fortrose was brought about by
the means mentioned in the interrogatory; and with respect to his
belief, declines deponing, as his belief may be wrong.

Pages of the
principal re-
port.
p. 512.

Interrogated, and desired to set forth the grounds or reasons of C
his belief, that the court may be judge of the force, validity, or
consequence of such reasons.

The commissioner found this question improper.

After this two or three indifferent questions were put, after D
which the report proceeds.

The complainer's doer prayed the commissioner to ask the wit-
ness, If he was willing to answer the question as to the grounds of
his belief, or if he refused it? The commissioner does again give it E
as his opinion, that the question is improper, and ought not to be
put; and does certify, that the witness did, repeated times, *viva*
voce, refuse to answer otherwise than he has done already. After
which a protest is taken against the witness for refusing to answer F
the above question, and against the commissioner for not put-
ting it.

Hugh Rose of Aitnoch.

G

Interrogated, If he knew, or was told, or in his conscience be-
lieves, that there was any money, meal, grain, rewards, or pro-
mises of rewards, given or promised, by Colonel Munro, or any H
of his friends or agents, to any person, for the behoof of the
community, for the purpose of bringing Colonel Munro and his
friends upon the council of Fortrose at last Michaelmas election?
the respondents counsel having objected to opinion, belief, and I
O hearfay;

p. 372.

ges of the
ncipal rep.

A hearfay; depones, That he neither knew nor was told, that there was any money, meal, grain, rewards, or promises of reward, offered, given, or promised, by the Colonel, or any of his friends or agents, to any person or persons, for the purpose mentioned in B the interrogatory. As to belief, declines to answer.

Interrogated, What are the grounds of his belief, and his reasons for refusing to answer? depones, That the deponent had no other ground of belief than the reports that were thus handed about, of C there having been money given for the use of the community: That the deponent thinks himself only obliged to tell upon oath what he really knows, or has heard; and not what the deponent believes and suspects, or does not believe and suspect.

D Interrogated, If he knew, or was told, or in his conscience has reason to believe, that there was any money, or reward, promise of money, reward, place, or employment, given or made, by Colonel Munro, or any of his friends or agents, to Mess. Ray, Greig, E Smith, and Andrew Bremner; or to any other person or persons, members of the council of Fortrose, or to any person for their behoof, for bringing Colonel Munro and his friends on the council at last Michaelmas? depones, That he neither knows, nor was told, so far as F he remembers, that there had been any money, place, or employment, given or promised to any of the persons above named, for the purpose above mentioned, except the vague reports which were then going about, of the counsellors having been bribed by G Colonel Munro, or some of his friends. And as to his own suspicion and belief, declines answering, for the reasons formerly mentioned.

Interrogated, If he knows, or has in his conscience reason to H believe, or has been told, that Colonel Munro and his friends were brought on the council of Fortrose at last Michaelmas, by means of bribery and corruption, and other undue influence? the respondents counsel objects to this question, as already put I and answered. Depones, That he does not know, nor was he ever told by Colonel Munro, or any of the present or late counsellors of Fortrose, that the election was brought about by means of bribery and corruption, and other undue influence; but heard K it currently reported about, that it had been done so. And as to his belief, declines to answer, for the reasons formerly mentioned.

p. 378.

Interrogate, If he knows, or has reason to believe, that Mr Jonathan Forbes, one of the counsellors of the borough of Fortrose,

was

was promised, or did receive any sum or sums of money, or other A gratuity or reward, to influence his conduct at the last Michaelmas election? depones, and refers to the answer he has already emitted to the general interrogatory upon this head.

David Ross of Inverchasky.

B

Pages of the
principal rep.
P. 438.

Interrogated, If he remembers, if the Colonel mentioned to him in their correspondence his reasons or grounds for saying, C that things bore a favourable appearance? depones, That he does not remember that he did.

Interrogate, If he remembers at what time he received the letter importing, that things bore a favourable appearance for the D Colonel? depones, That he does not remember the date of that letter; but thinks it was wrote very soon after the Colonel went to the country.

Interrogated, When he himself came to the shire of Ross in E harvest 1766? depones, That it was some days before the summer-session rose; that is, some day or days before the 12th of August.

Interrogated, If he did not come to the country at that time F to assist Colonel Munro in the point which he then had in view, of establishing an interest at Fortrose, and in that district of boroughs? depones, That the deponent would have gone north at that time though the Colonel had had no political object in view, having G several private affairs of his own and other people to attend to; but at the same time the deponent had very good inclination to do the Colonel any little service in his power, by endeavouring to support an interest for him in the said borough.

H

Interrogate, If these affairs were of so pressing a nature, as to induce the deponent to ask leave from the court of session, if he had no political object in view? depones, That he has already deponed, that he would have gone north at the above period, independent of any political object of Colonel Munro's: and though he does not think that the complainer, or his agents, have any title to ask the deponent, what was the nature of his private affairs, or the cause which induced him to apply for leave to get away from Edinburgh before the session rose; yet he will give them all the satisfaction he can upon that point, by telling them, that the chief reason for his wishing to get to the country so soon

P. 439.

was,

A was, that his friend Mr George Rofs had then come from London, was to go north with the deponent, and had but a few days to stay with him in the country.

Pages of the
principal rep.
p. 523.

B

Captain John Mackenzie of Avoch.

Interrogate, If, in any of the above letters of correspondence, there was any mention of the intended alteration in the council
C of Fortrose? and if any of these letters mentioned the then approaching election? depones *negative*, so far as he can recollect.

Interrogate, If, in his letters of correspondence previous to the election, he mentioned to Bailie Bremner what had passed in the
D conversation above mentioned between him and Captain Ray? This question was objected to as, as it had been already answered; but the commissioner was of opinion, that the question should be again put. Depones, That he did not explain the particulars of
E the conversation which passed betwixt him and Captain Ray, as above, in any of the letters which he wrote Bailie John Bremner previous to the last election, so far as he can at present recollect.

Interrogated, If he gave it as his advice and opinion to Bailie
F Bremner, to join with Captain Ray, and his associates in the council, in the letters which he wrote to Bailie Bremner previous to the election, or any of them? The witness being first removed, this question was objected to, as having been already twice answered; but the com-
G missioner allowed it to be put; and he then depones, That the witness has already said, that he is unacquainted with the form of procedure before courts; and therefore begs to be indulged some time, to give attention both to the questions put to him,
H and the answer he is to make, so as to guard against involving himself in any contradiction; and answers, That he thinks he has already answered the above interrogatory.

I Mr Rofs of Kindeace, another of the respondents who is crad to be re-examined, after having been teased with a variety of insinuating questions, is interrogated in the following manner.
“ Here the complainer’s counsel informs the witness, that he is
“ now going to interrogate him upon the particulars of his own
K “ conduct, as having been corrupted himself, or corrupting others,
“ in order to bring about the last Michaelmas election. And in-
“ terrogates the witness, Whether he treated with any of the old
“ counsellors, who went off the list at Michaelmas last, in order
“ to

" to engage them to do so, by money, employment, place, or pro- A
 " mises of them, in order to make room for Colonel Munro, and
 " five of his friends?" The respondents counsel objected to this
 question, and insisted it should not be put. The complainer's
 counsel answered, That the question ought to be put; " Because B
 " it may happen, that he may incline to answer it; or if he re-
 " fuses to answer it, his refusal will likewise be a benefit to the
 " complainer. The commissioner is of opinion, that the above
 " interrogatory is improper, and should not be put; and that the C
 " witness is not obliged to answer the same, or any other question,
 " having such tendency, unless he himself chuses to do it." Up-
 on this the complainer's counsel asked the deponent, " If he
 " chuses to answer this question, or if he chuses not to answer D
 " it? and observing, that the defenders counsel is going to dic-
 " tate something, moves, that the witness may be removed; and
 " the witness having been removed, the respondents counsel only
 " observed, that to this last question he opposed the commission- E
 " er's interlocutor just now pronounced, finding, that it was im-
 " proper; and therefore should not be put. And the witness
 " having returned, the complainer's counsel asked him again, If
 " he chuses to answer this question, or if he chuses not to answer F
 " it? Observed by the respondents counsel, that it is his opinion,
 " that the witness should not open his mouth, in answer to the
 " above question, or any other having such tendency, and that
 " in respect of the above interlocutor; since no proof can ever be G
 " brought to a conclusion if questions are to be answered by wit-
 " nesses after the commissioner has found, that the questions
 " were improper, and ought not to be put. The witness having
 " again weighed and perused the above interrogatory and opinion, H
 " with what followed thereon from his counsel, says, That he
 " thinks it unnecessary to answer the interrogatory.

" Interrogate, and put in mind he is upon oath, Whether his
 " first answer given a little ago to the question, were these express I
 " words, *I will not answer the question?* Here it was observed by
 " the respondents counsel, that supposing, but not granting, that
 " the witness had made use of the above words; yet as it is un-
 " doubtedly the privilege of every witness, in case he has been in K
 " any mistake, to be allowed to set the matter to rights at any
 " time before his deposition has been closed; therefore, in respect
 " of the above interlocutor, and as it would appear that the com-
 " plainer resolves to spin out this debate *in infinitum*, probably with

- A " a view to intrap the witness, and to make him contradict him-
 " self, he is of opinion, that the witness, who is one of the re-
 " spondents, and his client, ought not on any account to open his
 " lips on any subject whatever, till after he has been informed by
 B " the commissioner, that the complainer has put a new question,
 " which is neither directly nor indirectly comprehended in the a-
 " bove interrogatories, and his interlocutor pronounced on them
 " already. The witness having again perused what is on the pre-
 C " ceding page hereof respecting the interrogatory, the commissioner
 " certifies, that he returned the same to him with a shut mouth,
 " and without making any answer.
 " Interrogate, Whether he was directly or indirectly concerned
 D " in bribing others of the council or magistrates, or being bri-
 " bed himself, or by giving bribes or rewards, or promises of
 " rewards, to any other person or persons, for the use or be-
 " hoof of the said person or persons themselves, in order to procure
 E " the voice and interest of all or any of the said magistrates or
 " counsellors, or for behoof of all or any of them, for bringing in
 " Colonel Munro and his friends into council at the last Michael-
 " mas election of Fortrose? — The commissioner is of opinion
 F " that the above interrogatory is improper, and should not be put;
 " and that the witness is not obliged to answer the same, or any other
 " question having such a tendency, unless he himself chuses to do
 " it. — Upon this the complainer asks the witness, If he chuses
 G " to answer, or chuses not to answer, the above question? The
 " witness having perused the above interrogatory, opinion given
 " thereon, with what followed, the commissioner certifies, that he
 " returned the same to him with a shut mouth, and without ma-
 H " king any answer."

So many of the teasing questions put to Alexander Falconer, ap-
 pear from the 11th, 12th, and 13th pages of the preceding depo-
 sitions; and particularly his refusing to answer the question as to
 I his mother; as do those put to Mr George Mackay, from the 2d
 page thereof; as also those put to John Bremner, from the 20th,
 21st, 22d; particularly the teasing questions about an alledged
 treaty. And as to other teasing questions, put to Mr Ross of Kin-
 K deace, they are taken down p. 108 of the principal report. And
 no less than four pages of teasing nimious questions are put to
 Bailie Lewis Ray, who was two full days upon his examination,
 all relative to alledged incidents relating to this borough, and a
 candidate then alledged to have appeared as far back as the sum-
 mer 1765, p. 116. 117. 118. & 119. of said principal report.

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